

1 IN THE COUNTY OF WASHINGTON

2  
3 VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY  
4 VIRGINIA GAS AND OIL BOARD  
5

6  
7  
8 DECEMBER 13, 2005  
9

10  
11  
12 APPEARANCES:

13 **BOARD MEMBERS:**

14 JOSE SIMON - GAS REPRESENTATIVE  
15 PEGGY BARBAR - PUBLIC MEMBER  
16 MARY QUILLEN - PUBLIC MEMBER  
17 DONALD RATLIFF - COAL REPRESENTATIVE  
18 JAMES MCINTRYE - PUBLIC MEMBER

19 **CHAIRMAN:**

20 BENNY WAMPLER - DEPUTY DIRECTOR OF THE DMME AND CHAIRMAN

21 **COUNSEL:**

22 SHARON PIGEON - ASSISTANT ATTORNEY GENERAL

23  
24 BOB WILSON - DIRECTOR OF THE DIVISION OF GAS & OIL AND  
25 PRINCIPAL EXECUTIVE TO THE STAFF OF THE BOARD  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98  
99  
100  
101  
102  
103  
104  
105  
106  
107  
108  
109  
110  
111  
112  
113  
114  
115  
116  
117  
118  
119  
120  
121  
122  
123  
124  
125  
126  
127  
128  
129  
130  
131  
132  
133  
134  
135  
136  
137  
138  
139  
140  
141  
142  
143  
144  
145  
146  
147  
148  
149  
150  
151  
152  
153  
154  
155  
156  
157  
158  
159  
160  
161  
162  
163  
164  
165  
166  
167  
168  
169  
170  
171  
172  
173  
174  
175  
176  
177  
178  
179  
180  
181  
182  
183  
184  
185  
186  
187  
188  
189  
190  
191  
192  
193  
194  
195  
196  
197  
198  
199  
200  
201  
202  
203  
204  
205  
206  
207  
208  
209  
210  
211  
212  
213  
214  
215  
216  
217  
218  
219  
220  
221  
222  
223  
224  
225  
226  
227  
228  
229  
230  
231  
232  
233  
234  
235  
236  
237  
238  
239  
240  
241  
242  
243  
244  
245  
246  
247  
248  
249  
250  
251  
252  
253  
254  
255  
256  
257  
258  
259  
260  
261  
262  
263  
264  
265  
266  
267  
268  
269  
270  
271  
272  
273  
274  
275  
276  
277  
278  
279  
280  
281  
282  
283  
284  
285  
286  
287  
288  
289  
290  
291  
292  
293  
294  
295  
296  
297  
298  
299  
300  
301  
302  
303  
304  
305  
306  
307  
308  
309  
310  
311  
312  
313  
314  
315  
316  
317  
318  
319  
320  
321  
322  
323  
324  
325  
326  
327  
328  
329  
330  
331  
332  
333  
334  
335  
336  
337  
338  
339  
340  
341  
342  
343  
344  
345  
346  
347  
348  
349  
350  
351  
352  
353  
354  
355  
356  
357  
358  
359  
360  
361  
362  
363  
364  
365  
366  
367  
368  
369  
370  
371  
372  
373  
374  
375  
376  
377  
378  
379  
380  
381  
382  
383  
384  
385  
386  
387  
388  
389  
390  
391  
392  
393  
394  
395  
396  
397  
398  
399  
400  
401  
402  
403  
404  
405  
406  
407  
408  
409  
410  
411  
412  
413  
414  
415  
416  
417  
418  
419  
420  
421  
422  
423  
424  
425  
426  
427  
428  
429  
430  
431  
432  
433  
434  
435  
436  
437  
438  
439  
440  
441  
442  
443  
444  
445  
446  
447  
448  
449  
450  
451  
452  
453  
454  
455  
456  
457  
458  
459  
460  
461  
462  
463  
464  
465  
466  
467  
468  
469  
470  
471  
472  
473  
474  
475  
476  
477  
478  
479  
480  
481  
482  
483  
484  
485  
486  
487  
488  
489  
490  
491  
492  
493  
494  
495  
496  
497  
498  
499  
500  
501  
502  
503  
504  
505  
506  
507  
508  
509  
510  
511  
512  
513  
514  
515  
516  
517  
518  
519  
520  
521  
522  
523  
524  
525  
526  
527  
528  
529  
530  
531  
532  
533  
534  
535  
536  
537  
538  
539  
540  
541  
542  
543  
544  
545  
546  
547  
548  
549  
550  
551  
552  
553  
554  
555  
556  
557  
558  
559  
560  
561  
562  
563  
564  
565  
566  
567  
568  
569  
570  
571  
572  
573  
574  
575  
576  
577  
578  
579  
580  
581  
582  
583  
584  
585  
586  
587  
588  
589  
590  
591  
592  
593  
594  
595  
596  
597  
598  
599  
600  
601  
602  
603  
604  
605  
606  
607  
608  
609  
610  
611  
612  
613  
614  
615  
616  
617  
618  
619  
620  
621  
622  
623  
624  
625  
626  
627  
628  
629  
630  
631  
632  
633  
634  
635  
636  
637  
638  
639  
640  
641  
642  
643  
644  
645  
646  
647  
648  
649  
650  
651  
652  
653  
654  
655  
656  
657  
658  
659  
660  
661  
662  
663  
664  
665  
666  
667  
668  
669  
670  
671  
672  
673  
674  
675  
676  
677  
678  
679  
680  
681  
682  
683  
684  
685  
686  
687  
688  
689  
690  
691  
692  
693  
694  
695  
696  
697  
698  
699  
700  
701  
702  
703  
704  
705  
706  
707  
708  
709  
710  
711  
712  
713  
714  
715  
716  
717  
718  
719  
720  
721  
722  
723  
724  
725  
726  
727  
728  
729  
730  
731  
732  
733  
734  
735  
736  
737  
738  
739  
740  
741  
742  
743  
744  
745  
746  
747  
748  
749  
750  
751  
752  
753  
754  
755  
756  
757  
758  
759  
760  
761  
762  
763  
764  
765  
766  
767  
768  
769  
770  
771  
772  
773  
774  
775  
776  
777  
778  
779  
780  
781  
782  
783  
784  
785  
786  
787  
788  
789  
790  
791  
792  
793  
794  
795  
796  
797  
798  
799  
800  
801  
802  
803  
804  
805  
806  
807  
808  
809  
810  
811  
812  
813  
814  
815  
816  
817  
818  
819  
820  
821  
822  
823  
824  
825  
826  
827  
828  
829  
830  
831  
832  
833  
834  
835  
836  
837  
838  
839  
840  
841  
842  
843  
844  
845  
846  
847  
848  
849  
850  
851  
852  
853  
854  
855  
856  
857  
858  
859  
860  
861  
862  
863  
864  
865  
866  
867  
868  
869  
870  
871  
872  
873  
874  
875  
876  
877  
878  
879  
880  
881  
882  
883  
884  
885  
886  
887  
888  
889  
890  
891  
892  
893  
894  
895  
896  
897  
898  
899  
900  
901  
902  
903  
904  
905  
906  
907  
908  
909  
910  
911  
912  
913  
914  
915  
916  
917  
918  
919  
920  
921  
922  
923  
924  
925  
926  
927  
928  
929  
930  
931  
932  
933  
934  
935  
936  
937  
938  
939  
940  
941  
942  
943  
944  
945  
946  
947  
948  
949  
950  
951  
952  
953  
954  
955  
956  
957  
958  
959  
960  
961  
962  
963  
964  
965  
966  
967  
968  
969  
970  
971  
972  
973  
974  
975  
976  
977  
978  
979  
980  
981  
982  
983  
984  
985  
986  
987  
988  
989  
990  
991  
992  
993  
994  
995  
996  
997  
998  
999  
1000  
1001  
1002  
1003  
1004  
1005  
1006  
1007  
1008  
1009  
1010  
1011  
1012  
1013  
1014  
1015  
1016  
1017  
1018  
1019  
1020  
1021  
1022  
1023  
1024  
1025  
1026  
1027  
1028  
1029  
1030  
1031  
1032  
1033  
1034  
1035  
1036  
1037  
1038  
1039  
1040  
1041  
1042  
1043  
1044  
1045  
1046  
1047  
1048  
1049  
1050  
1051  
1052  
1053  
1054  
1055  
1056  
1057  
1058  
1059  
1060  
1061  
1062  
1063  
1064  
1065  
1066  
1067  
1068  
1069  
1070  
1071  
1072  
1073  
1074  
1075  
1076  
1077  
1078  
1079  
1080  
1081  
1082  
1083  
1084  
1085  
1086  
1087  
1088  
1089  
1090  
1091  
1092  
1093  
1094  
1095  
1096  
1097  
1098  
1099  
1100  
1101  
1102  
1103  
1104  
1105  
1106  
1107  
1108  
1109  
1110  
1111  
1112  
1113  
1114  
1115  
1116  
1117  
1118  
1119  
1120  
1121  
1122  
1123  
1124  
1125  
1126  
1127  
1128  
1129  
1130  
1131  
1132  
1133  
1134  
1135  
1136  
1137  
1138  
1139  
1140  
1141  
1142  
1143  
1144  
1145  
1146  
1147  
1148  
1149  
1150  
1151  
1152  
1153  
1154  
1155  
1156  
1157  
1158  
1159  
1160  
1161  
1162  
1163  
1164  
1165  
1166  
1167  
1168  
1169  
1170  
1171  
1172  
1173  
1174  
1175  
1176  
1177  
1178  
1179  
1180  
1181  
1182  
1183  
1184  
1185  
1186  
1187  
1188  
1189  
1190  
1191  
1192  
1193  
1194  
1195  
1196  
1197  
1198  
1199  
1200  
1201  
1202  
1203  
1204  
1205  
1206  
1207  
1208  
1209  
1210  
1211  
1212  
1213  
1214  
1215  
1216  
1217  
1218  
1219  
1220  
1221  
1222  
1223  
1224  
1225  
1226  
1227  
1228  
1229  
1230  
1231  
1232  
1233  
1234  
1235  
1236  
1237  
1238  
1239  
1240  
1241  
1242  
1243  
1244  
1245  
1246  
1247  
1248  
1249  
1250  
1251  
1252  
1253  
1254  
1255  
1256  
1257  
1258  
1259  
1260  
1261  
1262  
1263  
1264  
1265  
1266  
1267  
1268  
1269  
1270  
1271  
1272  
1273  
1274  
1275  
1276  
1277  
1278  
1279  
1280  
1281  
1282  
1283  
1284  
1285  
1286  
1287  
1288  
1289  
1290  
1291  
1292  
1293  
1294  
1295  
1296  
1297  
1298  
1299  
1300  
1301  
1302  
1303  
1304  
1305  
1306  
1307  
1308  
1309  
1310  
1311  
1312  
1313  
1314  
1315  
1316  
1317  
1318  
1319  
1320  
1321  
1322  
1323  
1324  
1325  
1326  
1327  
1328  
1329  
1330  
1331  
1332  
1333  
1334  
1335  
1336  
1337  
1338  
1339  
1340  
1341  
1342  
1343  
1344  
1345  
1346  
1347  
1348  
1349  
1350  
1351  
1352  
1353  
1354  
1355  
1356  
1357  
1358  
1359  
1360  
1361  
1362  
1363  
1364  
1365  
1366  
1367  
1368  
1369  
1370  
1371  
1372  
1373  
1374  
1375  
1376  
1377  
1378  
1379  
1380  
1381  
1382  
1383  
1384  
1385  
1386  
1387  
1388  
1389  
1390  
1391  
1392  
1393  
1394  
1395  
1396  
1397  
1398  
1399  
1400  
1401  
1402  
1403  
1404  
1405  
1406  
1407  
1408  
1409  
1410  
1411  
1412  
1413  
1414  
1415  
1416  
1417  
1418  
1419  
1420  
1421  
1422  
1423  
1424  
1425  
1426  
1427  
1428  
1429  
1430  
1431  
1432  
1433  
1434  
1435  
1436  
1437  
1438  
1439  
1440  
1441  
1442  
1443  
1444  
1445  
1446  
1447  
1448  
1449  
1450  
1451  
1452  
1453  
1454  
1455  
1456  
1457  
1458  
1459  
1460  
1461  
1462  
1463  
1464  
1465  
1466  
1467  
1468  
1469  
1470  
1471  
1472  
1473  
1474  
1475  
1476  
1477  
1478  
1479  
1480  
1481  
1482  
1483  
1484  
1485  
1486  
1487  
1488  
1489  
1490  
1491  
1492  
1493  
1494  
1495  
1496  
1497  
1498  
1499  
1500  
1501  
1502  
1503  
1504  
1505  
1506  
1507  
1508  
1509  
1510  
1511  
1512  
1513  
1514  
1515  
1516  
1517  
1518  
1519  
1520  
1521  
1522  
1523  
1524  
1525  
1526  
1527  
1528  
1529  
1530  
1531  
1532  
1533  
1534  
1535  
1536  
1537  
1538  
1539  
1540  
1541  
1542  
1543  
1544  
1545  
1546  
1547  
1548  
1549  
1550  
1551  
1552  
1553  
1554  
1555  
1556  
1557  
1558  
1559  
1560  
1561  
1562  
1563  
1564  
1565  
1566  
1567  
1568  
1569  
1570  
1571  
1572  
1573  
1574  
1575  
1576  
1577  
1578  
1579  
1580  
1581  
1582  
1583  
1584  
1585  
1586  
1587  
1588  
1589  
1590  
1591  
1592  
1593  
1594  
1595  
1596  
1597  
1598  
1599  
1600  
1601  
1602  
1603  
1604  
1605  
1606  
1607  
1608  
1609  
1610  
1611  
1612  
1613  
1614  
1615  
1616  
1617  
1618  
1619  
1620  
1621  
1622  
1623  
1624  
1625  
1626  
1627  
1628  
1629  
1630  
1631  
1632  
1633  
1634  
1635  
1636  
1637  
1638  
1639  
1640  
1641  
1642  
1643  
1644  
1645  
1646  
1647  
1648  
1649  
1650  
1651  
1652  
1653  
1654  
1655  
1656  
1657  
1658  
1659  
1660  
1661  
1662  
1663  
1664  
1665  
1666  
1667  
1668  
1669  
1670  
1671  
1672  
1673  
1674  
1675  
1676  
1677  
1678  
1679  
1680  
1681  
1682  
1683  
1684  
1685  
1686  
1687  
1688  
1689  
1690  
1691  
1692  
1693  
1694  
1695  
1696  
1697  
1698  
1699  
1700  
1701  
1702  
1703  
1704  
1705  
1706  
1707  
1708  
1709  
1710  
1711  
1712  
1713  
1714  
1715  
1716  
1717  
1718  
1719  
1720  
1721  
1722  
1723  
1724  
1725  
1726  
1727  
1728  
1729  
1730  
1731  
1732  
1733  
1734  
1735  
1736  
1737  
1738  
1739  
1740  
1741  
1742  
1743  
1744  
1745  
1746  
1747  
1748  
1749  
1750  
1751  
1752  
1753  
1754  
1755  
1756  
1757  
1758  
1759  
1760  
1761  
1762  
1763  
1764  
1765  
1766  
1767  
1768  
1769  
1770  
1771  
1772  
1773  
1774  
1775  
1776  
1777  
1778  
1779  
1780  
1781  
1782  
1783  
1784  
1785  
1786  
1787  
1788  
1789  
1790  
1791  
1792  
1793  
1794  
1795  
1796  
1797  
1798  
1799  
1800  
1801  
1802  
1803  
1804  
1805  
1806  
1807  
1808  
1809  
1810  
1811  
1812  
1813  
1814  
1815  
1816  
1817  
1818  
1819  
1820  
1821  
1822  
1823  
1824  
1825  
1826  
1827  
1828  
1829  
1830  
1831  
1832  
1833  
1834  
1835  
1836  
1837  
1838  
1839  
1840  
1841  
1842  
1843  
1844  
1845  
1846  
1847  
1848  
1849  
1850  
1851  
1852  
1853  
1854  
1855  
1856  
1857  
1858  
1859  
1860  
1861  
1862  
1863  
1864  
1865  
1866  
1867  
1868  
1869  
1870  
1871  
1872  
1873  
1874  
1875  
1876  
1877  
1878  
1879  
1880  
1881  
1882  
1883  
1884  
1885  
1886  
1887  
1888  
1889  
1890  
1891  
1892  
1893  
1894  
1895  
1896  
1897  
1898  
1899  
1900  
1901  
1902  
1903  
1904  
1905  
1906  
1907  
1908  
1909  
1910  
1911  
1912  
1913  
1914  
1915  
1916  
1917  
1918  
1919  
1920  
1921  
1922  
1923  
1924  
1925  
1926  
1927  
1928  
1929  
1930  
1931  
1932  
1933  
1934  
1935  
1936  
1937  
1938  
1939  
1940  
1941  
1942  
1943  
1944  
1945  
1946  
1947  
1948  
1949  
1950  
1951  
1952  
1953  
1954  
1955  
1956  
1957  
1958  
1959  
1960  
1961  
1962  
1963  
1964  
1965  
1966  
1967  
1968  
1969  
1970  
1971  
1972  
1973  
1974  
1975  
1976  
1977  
1978  
1979  
1980  
1981  
1982  
1983  
1984  
1985  
1986  
1987  
1988  
1989  
1990  
1991  
1992  
1993  
1994  
1995  
1996  
1997  
1998  
1999  
2000  
2001  
2002  
2003  
2004  
2005  
2006  
2007  
2008  
2009  
2010  
2011  
2012  
2013  
2014  
2015  
2016  
2017  
2018  
2019  
2020  
2021  
2022  
2023  
2024  
2025  
2026  
2027  
2028  
2029  
2030  
2031  
2032  
2033  
2034  
2035  
2036  
2037  
2038  
2039  
2040  
2041  
2042  
2043  
2044  
2045  
2046  
2047  
2048  
2049  
2050  
2051  
2052  
2053  
2054  
2055  
2056  
2057  
2058  
2059  
2060  
2061  
2062  
2063  
2064  
2065  
2066  
2067  
2068  
2069  
2070  
2071  
2072  
2073  
2074  
2075  
2076  
2077  
2078  
2079  
2080  
2081  
2082  
2083  
2084  
2085  
2086  
2087  
2088  
2089  
2090  
2091  
2092  
2093  
2094  
2095  
2096  
2097  
2098  
2099  
2100  
2101  
2102  
2103  
2104  
2105  
2106  
2107  
2108  
2109  
2110  
2111  
2112  
2113  
2114  
2115  
2116  
2117  
2118  
2119  
2120  
2121  
2122  
2123  
2124  
2125  
2126  
2127  
2128  
2129  
2130  
2131  
2132  
2133  
2134  
2135  
2136  
2137  
2138  
2139  
2140  
2141  
2142  
2143  
2144  
2145  
2146  
2147  
2148  
2149  
2150  
2151  
2152  
2153  
2154  
2155  
2156  
2157  
2158  
2159  
2160

1

2

INDEX

3 AGENDA AND DOCKET NUMBERS:

UNIT

PAGE

4	1)	VGOB-05-1018-1494	VC-536078	1 & 133
5	2)	VGOB-05-1115-1539	HRVAE #15	WITHDRAWN
6	3)	VGOB-05-1213-1541	A-24	5
7	4)	VGOB-05-1213-1542	AY-98	11
8	5)	VGOB-05-1213-1543	BA-119	16
9	6)	VGOB-05-1213-1544	BA-124	24
10	7)	VGOB-05-1213-1545	BG-119	29
11	8)	VGOB-05-1213-1546	BH-108	32
12	9)	VGOB-05-1213-1547	BK-115	38
13	10)	VGOB-05-1213-1548		43 & 132
14	11)	VGOB-05-0315-1420-02	825404	CONT.
15	12)	VGOB-05-0816-1492-01	V-502028	CONT.
16	13)	VGOB-05-1213-1549	VC-536771	56
17	14)	VGOB-05-1213-1550	P-550479	64
18	15)	VGOB-05-1213-1551	VC-550289	87
19	16)	VGOB-05-1213-1552	V-536849	94
20	17)	VGOB-05-1213-1553	V-536766	97
21	18)	VGOB-05-1213-1554	HRVAE #13	108
22	19)	VGOB-05-1213-1555	HRVAE #14	119

23

24

--

1	*Approve minutes	126
2	**Discuss escrow account	126
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1                   BENNY WAMPLER: Good morning. I'll call the meeting to order.  
2   Good morning. My name is Benny Wampler. I'm Deputy Director for the Virginia  
3   Department of Mines, Minerals and Energy and Chairman of the Gas and Oil  
4   Board. I'll ask the Board members to introduce themselves starting with Mr.  
5   Simon.

6                   JOSE SIMON: Jose Simon. I represent the gas companies.

7                   PEGGY BARBAR: Peggy Barbar, member at-large.

8                   SHARON PIGEON: I'm Sharon Pigeon with the office of the  
9   Attorney General.

10                  DONNIE RATLIFF: Donnie Ratliff representing the coal from Wise  
11   County.

12                  JAMES MCINTYRE: Jim McIntyre member of Wise.

13                  BOB WILSON: Bob Wilson. I'm the Director of the Division of Gas  
14   and Oil and Principal Executive to the staff of the Board.

15                  BENNY WAMPLER: Thank you. If you have cell phones or  
16   anything, we'd ask you to turn those off, please. The first item on the agenda  
17   today is a petition from Melvin Jack Long appealing the decision of the Director of  
18   the Division of Gas and Oil to issue a permit for coalbed methane well VC-  
19   536078. This is docket number VGOB-05-1018-1494. We'd ask the parties that  
20   wish to address the Board in this matter to come forward at this time.

21                  JIM KAISER: Mr. Chairman and Board members, Jim Kaiser and  
22   George Heflin on behalf of Equitable.

23                  BOB WILSON: I'm Bob Wilson. I'll be appearing as the Director of  
24

1 the Division of Gas and Oil.

2 JIM KAISER: Mr. Chairman, we'd request that this matter be pushed  
3 down the docket. We are negotiating. We may be able to get it taken care of.  
4 I'm going to withdraw item number two, as a matter of housekeeping. We're going  
5 to move that well and refile it. I'm also going to...and that will put Mr. Swartz's  
6 hearings up. Then I'm also going to...do you want me to go on with my  
7 housekeeping?

8 BENNY WAMPLER: Yes, please.

9 JIM KAISER: I'm also going to continue item number eleven. I'd like  
10 to continue that until February.

11 BENNY WAMPLER: Okay.

12 JIM KAISER: And I'm also going to continue item number twelve. I  
13 want to continue that until February...January. Continue that one until January,  
14 please.

15 BENNY WAMPLER: Okay. Those will be continued.

16 BOB WILSON: Mr. Chairman, let me clarify this.

17 BENNY WAMPLER: Mr. Wilson.

18 BOB WILSON: Item eleven, you're going to continue it until  
19 February, is that right?

20 JIM KAISER: Right.

21 BENNY WAMPLER: February. Number twelve until January.

22 BOB WILSON: Okay. Thank you.

23 JIM KAISER: And two withdraw and we'll refile it for either for  
24

1 January or February, depending on when I get the plat.

2 BENNY WAMPLER: And we're just going to delay this number one-

3 --?

4 JIM KAISER: Yeah.

5 BENNY WAMPLER: ---until you folks have a chance to talk?

6 JIM KAISER: Right.

7 BENNY WAMPLER: Okay.

8 JIM KAISER: So, we'll push it down until after number ten, I guess.

9 BENNY WAMPLER: Well, we'll probably push it down until we've

10 finished.

11 JIM KAISER: Okay. Whatever.

12 BENNY WAMPLER: I'll put it to the end, okay. All right. The next

13 item on the agenda is a petition from CNX Gas Company, LLC for pooling of

14 coalbed methane unit A-24, docket number VGOB-05-1213-1541. We'd ask the

15 parties that wish to address the Board in this matter to come forward at this time.

16 MARK SWARTZ: Mark Swartz and Les Arrington. We're getting

17 Les.

18 BENNY WAMPLER: You folks back here, can you hear okay when I

19 call the docket numbers?

20 JUDY TURNER: I would prefer that you read it just a little more

21 slowly, please. We're having a hard time hearing you.

22 BENNY WAMPLER: You might want to move over here because

23 you can hear better because you're behind me when I'm doing that and any of the

24

1 Board members if it's difficult to hear. This is docket number VGOB-05-1213-  
2 1541. The record will show no others. You may proceed.

3 (Leslie K. Arrington is duly sworn.)

4

5 LESLIE K. ARRINGTON

6 having been duly sworn, was examined and testified as follows:

7 DIRECT EXAMINATION

8 QUESTIONS BY MR. SWARTZ:

9 Q. Would you state your name for the record?

10 A. Leslie K. Arrington.

11 Q. Who do you work for?

12 A. CNX Gas Company, LLC.

13 Q. What do you do for them?

14 A. I'm manager of environmental and permitting.

15 Q. Les, did you either prepare or cause to be prepared under  
16 your direction the notices of hearing, the applications and the exhibits that are  
17 related to those notices that are on the docket today for CNX?

18 A. Yes, I did.

19 Q. Okay. The...with regard to this particular unit A-24, is this  
20 an Oakwood I unit?

21 A. Yes, it is.

22 Q. How many acres?

23 A. 80.

24

--

1 Q. How many wells?  
2 A. One.  
3 Q. And is the...is the plan for development to drill one frac  
4 well?  
5 A. Yes, it is.  
6 Q. Okay. And in this...in this instance, I think, the plat  
7 discloses that the well is...the proposed well is actually in the drilling window?  
8 A. Yes, it is.  
9 Q. Have you filed a cost estimate with the Board?  
10 A. Yes, we have. It's \$243,449.31 to a depth of 2,617 feet.  
11 Q. And it looks like you don't have a permit number yet.  
12 A. No.  
13 Q. Okay. What did you do to advise the people that are  
14 respondents that there would be hearing today?  
15 A. It was mailed by certified mail return receipt requested  
16 November 14, 2005; published in the Bluefield Daily Telegraph November 17,  
17 2005.  
18 Q. Okay. And did you file proofs with regard to your mailing  
19 and your publication with Mr. Wilson?  
20 A. Yes, we have.  
21 Q. And when you published, what was it that was published?  
22 A. Published the notice of hearing and the attached location  
23 map.  
24



1 Q. Okay. The larger map that shows the unit in relation to  
2 other units?

3 A. Yes.

4 Q. The...what are...what interests are you seeking to pool  
5 here?

6 A. We have leased 99.9748% of the total oil and gas owner's  
7 coalbed methane claim. We're seeking to pool 0.0252% of the coal, oil and gas  
8 owner's claim to coalbed methane.

9 Q. Okay. For the people that you've been successful...the  
10 vast majority of the folks in this unit that you've been successful in leasing, what  
11 have been the lease terms that you have offered those folks?

12 A. For a coalbed methane lease, it's a dollar per acre per  
13 year with a five year paid up term with a one-eighth production royalty.

14 Q. Okay. And would you recommend those same terms to the  
15 Board to be inserted in any order they might enter with regard to this pooling of  
16 this unit as being applicable to folks who might be deemed to have been leased?

17 A. Yes, we would.

18 Q. Okay. The list of folks that you're seeking to pool, the  
19 respondent, are they listed in the two section of the notice of hearing?

20 A. Yes, they are.

21 Q. Are they also listed in Exhibit B-3?

22 A. Yes.

23 Q. Okay. In...with regard to this particular unit, there is no  
24

1 escrow requirement?

2 A. No, there is not.

3 Q. Okay. And the...since this is an Oakwood unit, the

4 development plan is from the Tiller on down, correct?

5 A. Yes, it is.

6 Q. With...lastly, with regard to this unit, just in summary, is it

7 your opinion that drilling one frac well in the drilling window of this unit is a

8 reasonable plan to develop the coalbed methane under this unit?

9 A. Yes, it is.

10 Q. And is it your opinion that if you combine the leasing efforts

11 that the applicant has...has undertaken and obtained with a pooling order issued

12 by the Board that the correlative rights of everyone, all owners and all claimants,

13 would be protected?

14 A. Yes, they are.

15 Q. Do you want to add any respondents today?

16 A. No.

17 Q. Do you want to dismiss any?

18 A. No.

19 Q. Is there a request that the applicant also be appointed the

20 designated operator?

21 A. Yes, it is.

22 Q. And is the applicant and proposed designated operator a

23 Virginia Limited Liability company?

24

1 A. Yes.

2 Q. Okay. Is...is it authorized to do business in Virginia?

3 A. Yes, it is.

4 Q. Is...is CNX Gas Company, LLC an indirect subsidiary of

5 Consol Energy, Inc.?

6 A. Yes.

7 Q. Okay. Still is?

8 A. Still.

9 Q. Okay. Is CNX Gas Company, LLC registered with the

10 DMME and does it have a blanket bond on file?

11 A. Yes, it does.

12 MARK SWARTZ: That's all I have, Mr. Chairman.

13 BENNY WAMPLER: Questions from members of the Board?

14 (No audible response.)

15 DONNIE RATLIFF: Move to approve, Mr. Chairman.

16 BENNY WAMPLER: Motion to approve.

17 JOSE SIMON: Second.

18 BENNY WAMPLER: Second. Any further discussion?

19 (No audible response.)

20 BENNY WAMPLER: All in favor, signify by saying yes.

21 (All Board members signify by saying yes.)

22 BENNY WAMPLER: Opposed, say no.

23 (No audible response.)

24

1           BENNY WAMPLER: You have approval.

2           MARY QUILLEN: I'm sorry. I was tied up.

3           BENNY WAMPLER: Okay. State your name for the record so we'll  
4 have that.

5           MARY QUILLEN: Mary Quillen.

6           BENNY WAMPLER: The next item on the Board agenda is a  
7 petition from CNX Gas Company, LLC for pooling of coalbed methane unit AY-98.  
8 This is docket number VGOB-05-1213-1542. We'd ask the parties that wish to  
9 address the Board in this matter to come forward at this time.

10          MARK SWARTZ: Mark Swartz and Les Arrington.

11          BENNY WAMPLER: The record will show no others. You may  
12 proceed.

13          MARK SWARTZ: Mr. Chairman, I would like to incorporate Les  
14 Arrington's testimony from the prior hearing with regard to the applicant, the  
15 operator, the proposed lease terms and his opinion testimony.

16          BENNY WAMPLER: That will be incorporated.

17          MARK SWARTZ: Thank you.

18

19                           LESLIE K. ARRINGTON

20                           DIRECT EXAMINATION

21   QUESTIONS BY MR. SWARTZ:

22           Q.       Les, you need to state your name again.

23           A.       Leslie K. Arrington. I

24

--

1 Q. I'll remind you that you're still under oath.

2 A. Yes.

3 Q. This unit AY-98 is what kind of unit.

4 A. Nora.

5 Q. And it's being pooled under the Nora rules, correct?

6 A. Yes.

7 Q. How many acres?

8 A. 58.78.

9 Q. And what's the development plan? How many wells?

10 A. One, I'm sorry.

11 Q. Okay. And is this well going to be located in the drilling

12 window?

13 A. Yes, it is.

14 Q. Okay. Is it going to be frac well?

15 A. Yes.

16 Q. Have you provided the Board with a cost estimate for this

17 well?

18 A. Yes. \$241,612.30 to a depth of 2,578 feet.

19 Q. It looks like you've got a permit for this well.

20 A. Yes.

21 Q. Which is?

22 A. 6953.

23 Q. Okay. Who are the...have you...have you...strike that.

24

1 Have you identified the respondents or the people that you're seeking to pool both  
2 in the notice of hearing and in Exhibit B-3 to the application?

3 A. Yes, we have.

4 Q. Do you want to add or subtract any respondents today?

5 A. No.

6 Q. Okay. So, that's the list that we need?

7 A. Correct.

8 Q. What is...could you tell the Board what the acreage and  
9 interest that you've acquired are and then what...what you're seeking to pool?

10 A. Yes. We have leased 100% of the coal owner's claim to  
11 coalbed methane. We've leased 99.9578% of the oil and gas owner's claim to  
12 coalbed methane. We're seeking to pool 0.0422% of the oil and gas owner's  
13 claim to coalbed methane.

14 Q. Okay. The...what did you do to tell the respondents and  
15 other people who might be interested that there was going to be a hearing today?

16 A. We published in the Bluefield Daily Telegraph on  
17 November 17, 2005 and we mailed by certified mail return receipt requested  
18 November 14, 2005.

19 Q. And have you filed proofs with regard to both publication  
20 and mailing with Mr. Wilson?

21 A. Yes, we have.

22 Q. And when you published, what did you publish?

23 A. We published the notice of hearing and the attached  
24

1 location map.

2 Q. And you filed or included with the application is an Exhibit  
3 E?

4 A. Yes.

5 Q. And that address is escrow requirements?

6 A. Yes.

7 Q. And the escrow requirements are just straight up conflicts  
8 in Tracts 1 and 3?

9 A. Yes, it is.

10 Q. Okay. And do you have some split agreements?

11 A. Yes, Tract 3.

12 Q. And you filed an Exhibit EE with regard to that?

13 A. Yes, we have.

14 Q. And is it your request that in the event the Board pools this  
15 unit, that the pooling order allow the operator to pay the folks listed in Exhibit EE  
16 directly rather than escrowing their funds and that any payments made to them  
17 would be consistent with their written split agreement?

18 A. Yes, sir.

19 MARK SWARTZ: That's all I have, Mr. Chairman.

20 BENNY WAMPLER: Questions from members of the Board?

21 (No audible response.)

22 BENNY WAMPLER: Is there a motion?

23 JAMES McINTRYE: Motion to approve.

24

--

1                   DONNIE RATLIFF AND PEGGY BARBAR: Second.

2                   BENNY WAMPLER: Motion to approve and second. Any further

3 discussion?

4                   (No audible response.)

5                   BENNY WAMPLER: All in favor, signify by saying yes.

6                   (All Board members signify by saying yes.)

7                   BENNY WAMPLER: Opposed, say no.

8                   (No audible response.)

9                   BENNY WAMPLER: You have approval. The next item on the

10 agenda is a petition from CNX Gas Company, LLC for pooling of coalbed methane

11 unit BA-119. This is docket number VGOB-05-1213-1543. We'd ask the parties

12 that wish to address the Board in this matter to come forward at this time.

13                   MARK SWARTZ: Mark Swartz and Les Arrington.

14                   BENNY WAMPLER: The record will show no others. You may

15 proceed.

16                   LESLIE K. ARRINGTON: Anita is passing out a collection of revised

17 exhibits. So, you can probably with regard to, you know, who's being pooled,

18 Exhibit B-3, look at the revised stuff that you just received. There's an Exhibit B,

19 just to refresh everybody's memory. B-2 addresses the situation where...normally

20 where we're dismissing people. There are a number of people here listed in

21 Exhibit B-2. The reason is reported...I think when we get to that exhibit, you'll see

22 that there has been a significant amount of leasing, which is...which is allowing us

23 to dismiss a bunch of respondents. Of course, when you add and subtract people

24



1 from a unit, the revised Exhibit A, page two, the percentages change. So, it will  
2 be a slightly different percentage. So, if you're looking at who is a respondent  
3 and who is being dropped and what is the relevant percentage in terms of what's  
4 being pooled and what we've acquired, the revised exhibits are what you need to  
5 look at.

6

7

LESLIE K. ARRINGTON

8

DIRECT EXAMINATION

9 QUESTIONS BY MR. SWARTZ:

10 Q. Les, you need to state your name for us, again.

11 A. Leslie K. Arrington.

12 Q. Who do you work for?

13 A. CNX Gas Company, LLC.

14 MARK SWARTZ: Mr. Chairman, I would request that Les testimony  
15 from the first hearing today with regard to the applicant, the operator, lease terms  
16 and his opinion testimony be incorporated.

17 BENNY WAMPLER: That will be incorporated.

18 Q. Now, this is a Middle Ridge unit?

19 A. Yes, it is.

20 Q. How many acres?

21 A. 58.74.

22 Q. How many wells?

23 A. One.

24

--

1 Q. And this one happens to be outside the window?  
2 A. Yes.  
3 Q. Is it permitted?  
4 A. Yes, it is.  
5 Q. What's the number?  
6 A. 6...6747.  
7 Q. And have you provided the Board with a cost estimate?  
8 A. Yes. \$266,574.30 to a depth of 2,429.69.  
9 Q. Okay. We've got a number of respondents here and when  
10 this was originally filed there were a large number of people listed in the notice,  
11 correct?  
12 A. Yes, it was.  
13 Q. And those folks were also listed as respondents in Exhibit  
14 B-3?  
15 A. They were.  
16 Q. Since you got out the notice of hearing and...and your  
17 mailing and so forth, have you been able to lease some additional folks?  
18 A. We have.  
19 Q. Okay. And have you identified those people in the revised  
20 exhibits?  
21 A. Revised Exhibit B-2.  
22 Q. Okay. Let's...let's---.  
23 A. Or it's Exhibit B-3.

24

--

1 Q. Right. Let's find that. And that exhibit appears in the  
2 revised exhibits right behind the mailing and publication---?  
3 A. Yes.  
4 Q. ---of documents?  
5 A. Yes, it does.  
6 Q. Okay. And it goes on for 25 pages?  
7 A. It does.  
8 Q. And does it list folks that you are requesting that the Board  
9 dismiss as respondents?  
10 A. Yes, it is.  
11 Q. And what is the reason?  
12 A. They have been leased.  
13 Q. Okay. So, these folks in Exhibit B-2 were listed originally  
14 in B-3---?  
15 A. Yes.  
16 Q. ---when it was filed?  
17 A. Correct.  
18 Q. Okay. And if the Board were to enter an order, would it be  
19 your request that the folks identified in B-2 be dismissed as respondents?  
20 A. Yes.  
21 Q. Do you want to add anybody to that?  
22 A. No.  
23 Q. Okay. When...what did you do to let the original list of  
24

1 folks of people in the notice of hearing and in the original B-3 know that there was  
2 going to be a hearing today?

3 A. It was mailed by certified mail return receipt requested on  
4 November 16, 2005 and published in the Bluefield Daily Telegraph on November  
5 18, 2005.

6 Q. Okay. And...and in this event you've actually provided  
7 copies of the due diligence affidavit and the mailing information and the  
8 certificates with regard to publication to not only Mr. Wilson, but also to the Board  
9 members?

10 A. We did.

11 Q. Okay. And when you published, we can see what you  
12 published in this example. You've got the notice of hearing and the map.

13 A. Yes.

14 Q. And then the certificate of publication is something that  
15 comes back from the newspaper?

16 A. Correct.

17 Q. Okay. Looking at the revised Exhibit B-3, would it be fair to  
18 say that the difference between the original B-3 and the revised B-3 is that you've  
19 simply subtracted the people that you've obtained leases from?

20 A. Yes, it is.

21 Q. Okay. Then let's go...let's continue on and let's look at  
22 Exhibit...revised exhibit...I guess it's the last page of these revised exhibits A,  
23 page two. Could you indicate to the Board where you stand now in terms of what  
24

1 interest you've been able to acquire and what interest you're seeking to pool?

2 A. Yes, we have leased 96.60449% of the coal owner's claim  
3 to coalbed methane and 93.41755% of the oil and gas owner's claim to coalbed  
4 methane. We're seeking to pool 3.39551% of the coal owner's claim to coalbed  
5 methane and 6.58245% of the oil and gas owner's claim to coalbed methane.

6 Q. The escrow is somewhat...well, we've got every problem,  
7 right?

8 A. Yes, we do.

9 Q. We have an escrow requirement because there are folks  
10 that you don't have addresses for or haven't been able to identify, right?

11 A. Correct.

12 Q. And the tracts that need to be escrowed for unknowns are  
13 which tracts?

14 A. I believe it's 11, 13, 13B, 13C, 13D, 14 and 15.

15 Q. Okay. I haven't been able to review or didn't have a  
16 chance to review the revised exhibits. But when I looked at the original exhibits, I  
17 was finding unknowns in 1C and 8 and 9. Let's...let's look at that to make sure  
18 we've got it right here. So, would you agree with me that there's an escrow  
19 requirement for unknowns with regard to Tract 8?

20 A. There is 8.

21 Q. And also with regard to 9?

22 A. Yes.

23 Q. Okay. And then if we got to the coal, I think there's a  
24

1 requirement with regard to 1C. Let's look at that. 1C...I'm sorry, oil and gas is  
2 actually 42 and 48. 1C and we've got on page 43 of 68...I'm sorry, you've got  
3 some additional unknowns.

4 A. Yeah.

5 Q. So, in addition to the ones that you supplied, we need to  
6 add from an unknown escrow requirement standpoint or an unlocateable  
7 standpoint, 1C, 8 and 9?

8 A. Yes.

9 Q. Okay. And then we've got some title issues which would  
10 require escrow because we've got some indeterminate title where both people are  
11 claiming an interest?

12 A. Yes.

13 Q. Okay. And what are the tracts in which we have a title  
14 issue?

15 A. I believe a title issue is 11, 14 and 15.

16 Q. That's the same that I have, okay. Then you have also  
17 filed an Exhibit E, which would just...well, which would address all of the escrow  
18 requirements, but in addition to the ones that we've already discussed the  
19 traditional conflict situation.

20 A. Uh-huh.

21 Q. And what...what tracts does your Exhibit E indicate require  
22 escrow for that reason as well?

23 A. Okay. 1C, 11, 13, 13B, 13C, 13D, 14 and 15.

24

--

1 Q. Okay, I'm in agreement with that one as well. Okay, now  
2 do we have some split agreements?

3 A. Yes, we do.

4 Q. And have you filed...when you filed the original application  
5 an Exhibit EE wherein you listed the tracts affected by split agreements?

6 A. Yes, we did.

7 Q. And what tracts would those be?

8 A. 1B, 1C, 1E, 2A, 2B and 2C.

9 Q. Now, are you asking the Board in the event that they would  
10 enter a pooling order that they allow the operator to pay the folks identified in  
11 Exhibit EE directly rather than escrowing their funds and to pay them consistent  
12 with their written split agreement?

13 A. Yes, we are.

14 MARK SWARTZ: Okay. I think that's all I have, Mr. Chairman.

15 BENNY WAMPLER: The EE agreement, did any of the changes in  
16 that are in the revised exhibit have any impact on the original EE because we  
17 don't have a revised EE?

18 LESLIE K. ARRINGTON: I don't believe so.

19 BENNY WAMPLER: Questions from members of the Board?

20 (No audible response.)

21 BENNY WAMPLER: Is there a motion?

22 JAMES McINTRYE: Motion to approve.

23 JOSE SIMON: Second.

24

1           BENNY WAMPLER: Second. Any further discussion?

2           (No audible response.)

3           BENNY WAMPLER: All in favor, signify by saying yes.

4           (All Board members signify by saying yes.)

5           BENNY WAMPLER: Opposed, say no.

6           (No audible response.)

7           BENNY WAMPLER: You have approval. The next item on the  
8 agenda is a petition from CNX Gas Company, LLC for pooling of coalbed methane  
9 unit BA-124. This is docket number VGOB-05-1213-1544. We'd ask the parties  
10 that wish to address the Board in this matter to come forward at this time.

11           MARK SWARTZ: Mark Swartz and Les Arrington.

12           BENNY WAMPLER: Let the record show no others. You may  
13 proceed.

14

15                           LESLIE K. ARRINGTON

16                           DIRECT EXAMINATION

17   QUESTIONS BY MR. ARRINGTON:

18           Q.       Les, you need to state your name for us.

19           A.       Leslie K. Arrington. I'm manager of environmental and  
20 permitting, CNX Gas Company, LLC.

21           MARK SWARTZ: Mr. Chairman, I would ask that his testimony from  
22 the first docket item that affected CNX concerning the applicant, the operator,  
23 recommended lease terms and his opinion testimony be incorporated in this as

24

--



1 well.

2 BENNY WAMPLER: It will be incorporated.

3 MARK SWARTZ: Thank you.

4 Q. Mr. Arrington, what did you do to identify people that we  
5 were going to have a hearing today with regard to BA-124?

6 A. This was mailed certified mail return receipt requested  
7 November 16, 2005 and published in the Bluefield Daily Telegraph on November  
8 18, 2005.

9 Q. And have you filed proofs with regard to mailing and with  
10 regard to publication with Mr. Wilson?

11 A. Yes, we have.

12 Q. And...and when the notice was published, what was  
13 published?

14 A. The notice of hearing and attached location map.

15 Q. Okay. What kind of a unit is this or what field ruled are we  
16 talking about here?

17 A. It's a Middle Ridge unit. It's 58.74 acres.

18 Q. How many wells are contemplated?

19 A. One.

20 Q. Is it in the drilling window?

21 A. Yes, it is.

22 Q. Okay. Has the well been drilled?

23 A. No.

24

--

1 Q. And you don't have a permit number?

2 A. No.

3 Q. What's the projected depth?

4 A. 2,651 feet at a cost of \$244,844.15.

5 Q. Okay. Would you tell the Board what interest you've been

6 able to acquire in this unit and what interest remain outstanding that need to be

7 pooled?

8 A. Yes. We have 91.992% of the coal owner's claim to

9 coalbed methane leased and 64.6023% of the oil and gas owner's claim to

10 coalbed methane. We're seeking to pool 8.008% of the coal owner's claim to

11 coalbed methane and 35.3977% of the oil and gas owner's claim to coalbed

12 methane.

13 Q. Have you filed an Exhibit E with regard to escrow

14 requirements?

15 A. We did.

16 Q. Okay. And just in terms of conflicts what...what are the

17 tracts that require escrow?

18 A. 1E, 1F, 2A, 2C, 2D, 3, 4 and 5.

19 Q. Okay. And we've got some unknowns or unlocateables?

20 A. 2D and 5.

21 Q. Correct. And then have some of these folks in this unit

22 been able to enter into split agreements?

23 A. Yes, 2A and 2B.

24

1 Q. And you've got an Exhibit EE with regard to that?

2 A. Yes, we do.

3 Q. And are you requesting that the Board, if it enters an order

4 with regard tot his particular unit, that it allow the designated operator to pay

5 those folks directly?

6 A. Yes, we are.

7 Q. Okay. Do you want to add any respondents or subtract

8 any respondents today?

9 A. No.

10 Q. Okay. And when you...and when you mailed notice, did

11 you mail to the people listed to the extent that you had addresses to the people

12 listed in the notice of hearing and B-3?

13 A. Yes, we did.

14 MARK SWARTZ: Mr. Chairman, that's all I have on this one.

15 BENNY WAMPLER: Questions from members of the Board?

16 (No audible response.)

17 BENNY WAMPLER: Is there a motion?

18 JOSE SIMON: Motion to approve.

19 JAMES McINTRYE: Second.

20 BENNY WAMPLER: Motion to approve and a second. Any further

21 discussion?

22 (No audible response.)

23 BENNY WAMPLER: All in favor, signify by saying yes.

24

1 (All Board members signify by saying yes.)

2 BENNY WAMPLER: Opposed, say no.

3 (No audible response.)

4 BENNY WAMPLER: You have approval. The next item on the  
5 agenda is a petition from CNX Gas Company, LLC for pooling of coalbed methane  
6 unit BG-119. This is docket number VGOB-05-1213-1545. We'd ask the parties  
7 that wish to address the Board in this matter to come forward at this time.

8 MARK SWARTZ: Mark Swartz and Les Arrington.

9 BENNY WAMPLER: The record will show no others. You may  
10 proceed.

11

12 LESLIE K. ARRINGTON

13 DIRECT EXAMINATION

14 QUESTIONS BY MR. SWARTZ:

15 Q. You need to state your name, again.

16 A. Leslie K. Arrington. I'm manager of environmental and  
17 permitting for CNX Gas Company, LLC.

18 MARK SWARTZ: Mr. Chairman, I would request that we be allowed  
19 to incorporate Mr. Arrington's testimony from the first noticed hearing today for  
20 CNX with regard to the applicant, the operator, proposed lease terms and his  
21 opinion testimony.

22 BENNY WAMPLER: That will be incorporated.

23 MARK SWARTZ: Thank you.

24

--

1 Q. Mr. Arrington, have you listed the respondents in the notice  
2 of hearing and Exhibit B-3?

3 A. Yes, we did.

4 Q. What did you do to tell them that there was going to be  
5 hearing today?

6 A. We mailed by certified mail return receipt requested on  
7 November 14, 2005 and published in the Bluefield Daily Telegraph on November  
8 19, 2005.

9 Q. Have you filed proofs in that regard with regard to mailing  
10 and publication with Mr. Wilson?

11 A. Yes, we did.

12 Q. And when you published, what did you publish?

13 A. The notice of hearing and a location map.

14 Q. What field rules is this unit being pooled under?

15 A. Middle Ridge and it's a 58.74 acre unit.

16 Q. And how many wells are proposed?

17 A. One.

18 Q. And where is it located in relation to the window?

19 A. Within the...within the window.

20 Q. Okay. Have you provided a well cost estimate?

21 A. Yes. It's \$241,784.12 to a depth of 2584 feet.

22 Q. Okay. Do you want to add any respondents or subtract  
23 any respondents today?

24

1 A. No.

2 Q. Okay. Would you tell the Board what you've been able to  
3 acquire, what interest you've been able to acquire and what it is you're seeking to  
4 pool?

5 A. Yes. We've leased 100% of the coal owner's claim to  
6 coalbed methane and 84.4821% of the oil and gas owner's claim to coalbed  
7 methane. We're seeking to pool 17.5179% of the oil and---

8 JOSE SIMON: It should be 82 instead of 84%.

9 A. Okay. Yeah. 17.5179% of the oil and gas owner's claim to  
10 coalbed methane.

11 Q. You've got it right on A, page two.

12 A. Yes.

13 Q. You just had it wrong on your spreadsheet, right?

14 A. On the spreadsheet, yes.

15 Q. Okay. Is there an escrow requirement for addresses  
16 unknown?

17 A. Tract 4.

18 Q. And is there a traditional Exhibit E conflicts requirement?

19 A. Yes, Tract 4.

20 Q. Okay. And you have no split agreements?

21 A. No.

22 MARK SWARTZ: That's all I have, Mr. Chairman.

23 BENNY WAMPLER: Questions from members of the Board?

24

--

1 (No audible response.)

2 BENNY WAMPLER: Is there a motion?

3 JAMES McINTRYE: So moved.

4 DONNIE RATLIFF: Second, Mr. Chairman.

5 BENNY WAMPLER: Motion to approve and second. Any further

6 discussion?

7 (No audible response.)

8 BENNY WAMPLER: All in favor, signify by saying yes.

9 (All Board members signify by saying yes.)

10 BENNY WAMPLER: Opposed, say no.

11 (No audible response.)

12 BENNY WAMPLER: You have approval. The next item on the

13 agenda is a petition from CNX Gas Company, LLC for pooling of coalbed methane

14 unit BH-108. This is docket number VGOB-05-1213-1546. We'd ask the parties

15 that wish to address the Board in this matter to come forward at this time.

16 MARK SWARTZ: Mark Swartz and Les Arrington.

17 BENNY WAMPLER: The record will show no others. You may

18 proceed.

19 MARK SWARTZ: You'll notice that we've got some revised exhibits

20 here again. It's the same as we saw the last time. We've leased a bunch of

21 people since it was noticed. There is an Exhibit B-2 that lists those folks. I think

22 it's on the order of seven pages or so. Then there would necessarily be a revised

23 Exhibit B-3 for respondents for the people being pooled and the percentages at

24

1 issue have changed and there's a revised Exhibit A, page two.

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25



1 LESLIE K. ARRINGTON

2 DIRECT EXAMINATION

3 QUESTIONS BY MR. SWARTZ:

4 Q. Les, you need to state your name again.

5 A. Leslie K. Arrington.

6 Q. And who do you work for?

7 A. CNX Gas Company, LLC.

8 MARK SWARTZ: Okay. And, Mr. Chairman, I would like  
9 incorporate his testimony from the first hearing that he testified in today with  
10 regard to the applicant, the operator, lease terms and his opinion testimony.

11 BENNY WAMPLER: That will be incorporated.

12 MARK SWARTZ: Thank you.

13 Q. Mr. Arrington, have you listed the...when you filed this, did  
14 you list all of the respondents that you...all of the respondents in the notice of  
15 hearing and in Exhibit B-3?

16 A. Yes, we did.

17 Q. And did you mail to all of the folks on that list that you had  
18 addresses for?

19 A. Yes, we did.

20 Q. And did you also publish?

21 A. Yes, we did.

22 Q. Okay. Tell us when you did those two things.

23 A. We mailed by certified mail return receipt requested

24

--

1 November 14, 2005 and published in the Bluefield Daily Telegraph November 19,  
2 2005.

3 Q. And have you filed proofs with regard to both mailing and  
4 publication with Mr. Wilson?

5 A. Yes, we have.

6 Q. And when you published, what was it that you published?

7 A. The notice of hearing and the attached location map.

8 Q. Okay. What field rules are we concerned with here?

9 A. This is a Middle Ridge unit with 58.74 acres.

10 Q. How many wells?

11 A. One.

12 Q. And this one is in the window as well, isn't it?

13 A. Yes, it is.

14 Q. Okay. Do you want to add any respondents today?

15 A. No.

16 Q. Do you want to dismiss some?

17 A. Yes.

18 Q. Okay. And have you listed the folks that you want to  
19 dismiss in the Exhibit B-2 that you've submitted today?

20 A. Yes, we did.

21 Q. And that's...that's seven pages?

22 A. Yes.

23 Q. And what's the reason for dismissal?  
24

1 A. Those interests have been leased?

2 Q. Okay. And then do you have...have you submitted a  
3 revised Exhibit B-3 consisting of nine pages?

4 A. Yes, we have.

5 Q. And what's the difference between the original B-3 and the  
6 revised B-3?

7 A. It's taking out the leased interest shown on B-2?

8 Q. Okay. And then the last page of the revised exhibits is a  
9 revised Exhibit A, page two?

10 A. Yes.

11 Q. And would you tell the Board where we stand now in terms  
12 of what you've been able to lease and acquire and what you need to pool?

13 A. Yes, we have leased 90.1703% of the coal, oil and gas  
14 owner's claim to coalbed methane. We're seeking to pool 9.8297% of the coal, oil  
15 and gas owner's claim to coalbed methane.

16 Q. Have you provided the Board with a cost estimate?

17 A. Yes...yes, we did. It's \$251,779.97 to a depth of 2,925  
18 feet. The permit number is 6895.

19 Q. Okay. Is this well drilled?

20 A. No.

21 Q. Okay. Just permitted but not drilled yet?

22 A. Correct.

23 Q. There is an Exhibit E, I believe, that you've attached?

24

1                   A.           Yes for Tract C.

2                   Q.           Okay. And that's a traditional conflict situation and also

3 there are a bunch of unknown addresses in that?

4                   A.           That's correct.

5                   Q.           Okay. There's no split agreement, correct?

6                   A.           No.

7                   Q.           So, we don't have to deal with an Exhibit EE?

8                   A.           Correct.

9                   MARK SWARTZ: Mr. Chairman, that's all I have on this one.

10                  BENNY WAMPLER: Questions from members of the Board?

11                  DONNIE RATLIFF: Mr. Chairman.

12                  BENNY WAMPLER: Mr. Ratliff.

13                  DONNIE RATLIFF: On the surface, there appears to be dwellings or

14 buildings on 1B, 1C and 1D. Those aren't occupied or those are unknown surface

15 tracts? But the plat shows that there's some type of dwelling there.

16                  LESLIE K. ARRINGTON: Yes. We're not disturbing them. We're

17 up on a ridge top way above them. So, that's the reason we don't identify those.

18                  DONNIE RATLIFF: You didn't...okay.

19                  BENNY WAMPLER: Other questions?

20                  (No audible response.)

21                  BENNY WAMPLER: Is there a motion?

22                  DONNIE RATLIFF: I move to approve, Mr. Chairman.

23                  BENNY WAMPLER: Motion to approve.

24

~

1                    JAMES McINTRYE: Second.

2                    BENNY WAMPLER: Second. Any further discussion?

3                    (No audible response.)

4                    BENNY WAMPLER: All in favor, signify by saying yes.

5                    (All Board members signify by saying yes.)

6                    BENNY WAMPLER: Opposed, say no.

7                    (No audible response.)

8                    BENNY WAMPLER: You have approval. The next item on the  
9 agenda is a petition from CNX Gas Company, LLC for pooling of coalbed methane  
10 unit BK-115. This is docket number VGOB-05-1213-1547. We'd ask the parties  
11 that wish to address the Board in this matter to come forward at this time.

12                   MARK SWARTZ: Mark Swartz and Les Arrington.

13                   BENNY WAMPLER: The record will show no others. You may  
14 proceed.

15

16                                    LESLIE K. ARRINGTON

17                                    DIRECT EXAMINATION

18                   QUESTIONS BY MR. SWARTZ:

19                   Q.           Les, you need to state your name for us again.

20                   A.           Leslie K. Arrington.

21                   Q.           Who do you work for and what do you do?

22                   A.           CNX Gas Company, LLC, manager of environmental and  
23 permitting.

24

--

1                   BENNY WAMPLER: Mr. Chairman, I would like to incorporate Mr.  
2 Arrington's testimony from the first CNX hearing on the docket today with regard  
3 to the applicant, the operator, recommended lease terms and his opinion  
4 testimony, if I could.

5                   BENNY WAMPLER: That will be incorporated.

6                   MARK SWARTZ: Thank you.

7                   Q.           Les, with regard to BK-115, have you listed or did you list  
8 when you sent this out and prepared this all of the respondents on both the notice  
9 of hearing and the initial Exhibit B-3?

10                  A.           We did.

11                  Q.           And what did you do to let those people know there was  
12 going to be a hearing today?

13                  A.           It was mailed by certified mail return receipt requested  
14 November 16, 2005 and published in the Bluefield Daily Telegraph on November  
15 17, 2005.

16                  Q.           Have filed your proofs in that regard with Mr. Wilson?

17                  A.           Yes, we have.

18                  Q.           When you published, what did you publish?

19                  A.           The notice of hearing and the attached location map.

20                  Q.           Okay. Since the original notices went out and the  
21 paperwork was done, have you been able to lease additional interests?

22                  A.           Yes, we have.

23                  Q.           Okay. And have you provided the Board members today  
24

1 with an Exhibit B-2?

2 A. Yes, we did.

3 Q. And are you asking the Board to dismiss certain people as

4 respondents?

5 A. Yes, we are.

6 Q. And what's the reason?

7 A. Those interests have been leased.

8 Q. Okay. There's a one page B-2 that shows who you want to

9 subtract?

10 A. Yes.

11 Q. Okay. Do you want to add anybody today?

12 A. No.

13 Q. And then you've got a...you've tendered a revised Exhibit

14 B-3?

15 A. Yes.

16 Q. And what's the difference between the original B-3 and the

17 revised Exhibit B-3?

18 A. The B-2 names have been removed from the B-3.

19 Q. Okay. And then the last item in the revised packet is

20 Exhibit A, page two, correct?

21 A. That's correct.

22 Q. And what are the percentages now that we're dealing with

23 giving the additional leasing?

24

1                   A.           We have leased 100% of the coalbed methane owners  
2 from the coal owner and 97.6847% of the oil and gas owners have been leased.  
3 We're seeking to pool 2.3153% of the oil and gas owner's claim to coalbed  
4 methane.

5                   Q.           That's substantially less than you were dealing with when  
6 you originally filed, right?

7                   A.           Yes.

8                   Q.           Okay. What field rules are we talking about here?

9                   A.           It's Middle Ridge I. It has 58.74 acres in it.

10                  Q.           How many wells are we talking about?

11                  A.           One.

12                  Q.           Is it in the window?

13                  A.           Yes, it is.

14                  Q.           Have you provided the Board with a well cost estimate?

15                  A.           Yes. \$245,829.89 to a depth of 2,725 feet. The permit  
16 number is 6854.

17                  Q.           We've got some escrow requirements here. It looks like  
18 we've got a title issue, meaning there's a conflict in title, in Tracts 4 and 5?

19                  A.           Yes.

20                  Q.           And we've got some unknowns or unlocateables also in  
21 Tracts 4 and 5?

22                  A.           Yes, we do.

23                  Q.           And then you filed an Exhibit E, which addresses those  
24



1 issues, but also the more traditional conflict?

2 A. Correct.

3 Q. And what tracts would be subject to escrow as stated in

4 Exhibit E?

5 A. 2, 3, 4, 5, 6 and 7.

6 MARK SWARTZ: Okay. Mr. Chairman, that's all I have on this one.

7 BENNY WAMPLER: Questions from members of the Board?

8 (No audible response.)

9 BENNY WAMPLER: Is there a motion?

10 JAMES McINTRYE: Motion to approve.

11 JOSE SIMON: Second.

12 BENNY WAMPLER: Motion to approve and second. Any further

13 discussion?

14 (No audible response.)

15 BENNY WAMPLER: All in favor, signify by saying yes.

16 (All Board members signify by saying yes.)

17 BENNY WAMPLER: Opposed, say no.

18 (No audible response.)

19 BENNY WAMPLER: You have approval. The next item on the

20 agenda is a petition from John Sheffield, as Trustee of, I don't how to pronounce

21 that, Oryn Treadway Sheffield, Jr. Trust. This is docket number VGOB-05-1213-

22 1548. We'd ask the parties that wish to address the Board in this matter to come

23 forward at this time. If you all would identify yourselves for the record, please.

24

1                   JOHN MOSS: John Moss. I'm counsel for John Coleman Sheffield,  
2 as Trustee of the Oryn Treadway Sheffield, Jr. trust and also Counsel for Oryn  
3 Sheffield, Jr., as Trustee for the John Coleman Sheffield Trust.

4                   JOHN TOLLMAN SHEFFIELD: John Tollman Sheffield, Trustee of  
5 the Oryn Treadway Sheffield Trust.

6                   MARK SWARTZ: Mark Swartz and Les Arrington.

7                   BENNY WAMPLER: The record will show there are no others. You  
8 may proceed.

9

10                                   JOHN TOLLMAN SHEFFIELD  
11 having been duly sworn, was examined and testified as follows:

12   DIRECT EXAMINATION

13   QUESTIONS BY JOHN MOSS:

14                   Q.           Please state your name for the Court.

15                   A.           John Tollman Sheffield.

16                   Q.           And you are the Trustee of the Oryn Treadway Sheffield,  
17 Jr. Trust?

18                   A.           I am.

19                   BENNY WAMPLER: We need to get him sworn in, please.

20                   (John Tollman Sheffield is duly sworn.)

21                   JOHN MOSS: We'll start over again.

22                   Q.           State your name for the Board.

23                   A.           John Tollman Sheffield.

24

--

1 Q. You're the Trustee for the Oryn Treadway Sheffield, Jr.  
2 Trust?  
3 A. I am.  
4 Q. Also, you're the holder of the...of your own Trust, correct?  
5 A. Yes.  
6 Q. And did you have prepared or caused to be prepared a  
7 notice of hearing and petition in this matter?  
8 A. Yes.  
9 Q. And did you send out notice of that petition by certified  
10 mail?  
11 A. I did.  
12 Q. When did you send that out?  
13 A. I believe it was on the 10th of November, '05.  
14 Q. Did you send that to CNX Gas Company, LLC?  
15 A. I did.  
16 Q. Okay. What is the relief that you're seeking today?  
17 A. We're hoping to escrow all wells on 69 tracts of land where  
18 there's a question as to...a title question as to ownership of coalbed methane.  
19 Q. These 69 tracts of land, are they located in Buchanan  
20 County, Virginia?  
21 A. Yes, they are.  
22 Q. And if could, please tell the Board how you came into  
23 possession of the interest in these 69 tracts of land?  
24

1                   A.       Yes. This chain of title came down to Jessie Mae Pobst,  
2 my grandmother, which my brother and I have the two Trusts which make up her  
3 estate.

4                   Q.       So, it came down through your grandmother?

5                   A.       Yes, sir.

6                   Q.       And your grandmother acquired this property through H.  
7 Claude Pobst?

8                   A.       That is correct.

9                   Q.       And actually in 1937, H. Claude Pobst and F. H. Combs  
10 purchased these tracts of property, correct?

11                  A.       That is correct.

12                  Q.       As well as all coal, oil and gas and all such other minerals,  
13 metal and timber?

14                  A.       That is correct.

15                  Q.       And that's by a deed dated December the 4th, 1937?

16                  A.       Yes.

17                  Q.       Subsequent to that, did...to your knowledge, did H. Claude  
18 Pobst and F. H. Combs devise any coal from those tracts?

19                  A.       Yes, they did. In 1937 they devised 70 tracts of coal to  
20 their company, Levisa Coal Company, in December of 1937, coal, mineral and  
21 timber.

22                  Q.       Now, it's your position that the Trust still have ownership  
23 interest in coalbed methane, correct?

24

1 A. Yes.

2 Q. Have you ever, to your knowledge, been placed under

3 lease for this coalbed methane by anyone?

4 A. My grandmother was placed under lease in August the

5 12th of 1989 from Oxy Gas Company. That was in Book 353, page 127.

6 Q. And in regard to this...this lease, have you seen the lease?

7 A. Yes, I have.

8 Q. And it is an oil, gas and coalbed methane lease?

9 A. Yes, it is.

10 Q. And oil and gas are treated in that lease as well as coalbed

11 methane?

12 A. Yes, it is. All three separate estates.

13 Q. And they're also treated separately?

14 A. Yes.

15 Q. In regards to oil and gas, did the lease take effect as of its

16 execution?

17 A. No, it did not.

18 Q. What about in regards to coalbed methane?

19 A. It was to begin the day once the lease was executed.

20 Q. Now, have you ever contacted CNX in regards to

21 clarification of what your interest may be in these tracts in regard to coalbed

22 methane?

23 A. Yes, I have. I have had phone conversations and sent

24

1 letters as to my potential claim and at that time to Claude Morgan in the Bluefield  
2 office.

3 Q. What responses have you received?

4 A. None.

5 Q. To your knowledge, it's the position that you don't own any  
6 coalbed methane, correct?

7 A. That was after the question had been put to them from the  
8 Director of Oil and Gas, not by me. They decided that...at that time, that I did not  
9 have any interest in oil, gas or coal. But...and our...my contention is that we have,  
10 as well as all such other minerals.

11 Q. And that's consistent with the language in the lease, as  
12 well as the prior deeds in the chain of title?

13 A. Correct.

14 Q. Is there any pending litigation in regards to your interest in  
15 the coalbed methane on these tracts?

16 A. Yes. I believe it was filed this morning in the Courthouse  
17 in Grundy, the County seat of Buchanan County.

18 Q. And you're asking the Court today to allow the escrowing  
19 of funds until these matters are settled?

20 A. Actually, from the time of production began to forward at  
21 whatever our interest is of one-eighth...25% of one-eighth. From this point forward,  
22 we would like to have 100% of that 25%.

23 Q. Escrowed from this date forward?

24

--

1                   A.           Yes, until decided by the Court. I might also add to the  
2 record that if there involves any repooling to that...those wells on the property,  
3 that that burden should be put on the gas company.

4                   JOHN MOSS: I have no further questions. Please answer any  
5 questions that the Board or other counsel may have.

6                   MARY QUILLEN: Mr...Mr. Chair, I have a question on the  
7 interpretation of this original 1937---.

8                   JOHN TOLLMAN SHEFFIELD: Document.

9                   MARY QUILLEN: This coal, oil and gas, as well as all such other  
10 minerals. Now, in 1937, to the best of my knowledge, I don't believe I ever have  
11 heard or read or anything that there was any acknowledgment of coalbed  
12 methane. Are you interpreting "all such other minerals" to be the coalbed  
13 methane?

14                  JOHN TOLLMAN SHEFFIELD: That question, is it okay for me to  
15 answer?

16                  MARY QUILLEN: Sure.

17                  MARK SWARTZ: Yeah.

18                  MARY QUILLEN: Someone answer it.

19                  JOHN TOLLMAN SHEFFIELD: I'm sorry, I'll answer it. Yes, ma'am,  
20 because it's not defined as it is in the lease as its own estate, then it would fall  
21 under other minerals. I would agree with you that at that time they didn't  
22 understand---.

23                  MARY QUILLEN: There was no such thing.

24

--

1                   JOHN TOLLMAN SHEFFIELD: ---what it was. If it was anything, it  
2 would be a nuisance. I understand what you're saying.

3                   MARY QUILLEN: Right.

4                   JOHN TOLLMAN SHEFFIELD: But...and the fact that the title...the  
5 chain of title did not convey any...as well as other such mineral, except in 1941  
6 when Claude Pobst and F. H. Combs conveyed to Garden Realty Tract Number 3  
7 and what was left on Tract Number 3 after they had conveyed all of their coal,  
8 mineral and timber on the other 70 tracts was oil, gas, as well as all other such  
9 mineral substances and anything in the underlying of the land on that tract. So,  
10 they knew there was something, in my opinion, and they weren't sure what it was.

11                  MARY QUILLEN: In 1941?

12                  JOHN TOLLMAN SHEFFIELD: Yes. I have a copy of that for you, if  
13 you'd like, I'm sorry.

14                  MARY QUILLEN: I don't see it documented on this petition, that's  
15 the reason I was asking, for 1941. There a reference in 1947.

16                  JOHN TOLLMAN SHEFFIELD: There was a sell of oil and gas,  
17 you're correct.

18                  MARY QUILLEN: Uh-huh.

19                  JOHN TOLLMAN SHEFFIELD: Or a conveyance, excuse me.

20                                 (John Moss and John Tollman Sheffield confer with each other.)

21                  JOHN TOLLMAN SHEFFIELD: Well, I guess, my only point to that  
22 is that my grandmother was included in the 353127 lease of 1989 and the lease  
23 was oil, gas and coalbed methane.

24

--



1                   BENNY WAMPLER: Has anyone ever prepared a complete chain of  
2 title?  
3                   JOHN TOLLMAN SHEFFIELD: I have personally. I don't know if  
4 anybody else has.  
5                   BENNY WAMPLER: Could you state your qualifications?  
6                   JOHN TOLLMAN SHEFFIELD: Just the fact that I'm trying to protect  
7 my mineral interest, sir.  
8                   BENNY WAMPLER: What are the 69 tracts that you're asking us  
9 to...you're asking us to escrow on 69 tracts.  
10                  JOHN TOLLMAN SHEFFIELD: Yes, sir.  
11                  BENNY WAMPLER: What are they?  
12                  JOHN TOLLMAN SHEFFIELD: They are...I believe they are  
13 identified...are you saying where is their identification? I believe they're identified  
14 within the original deed and Tract Number 3 would be off of that.  
15                  JOHN MOSS: Right.  
16                  JOHN TOLLMAN SHEFFIELD: Excluding...all 70 tracts excluding  
17 Tract Number 3.  
18                  BENNY WAMPLER: Is that where you're listing Russell Fork river,  
19 etc.?  
20                  JOHN TOLLMAN SHEFFIELD: Exhibit 1.  
21                  JOHN MOSS: On their Exhibit 1.  
22                  JOHN TOLLMAN SHEFFIELD: Yes, sir, Exhibit 1. I apologize, sir.  
23                  BENNY WAMPLER: And those follow actual tract numbers that the  
24

1 Board has---?

2 JOHN TOLLMAN SHEFFIELD: Yes, that they're identified by.

3 BENNY WAMPLER: I don't think so.

4 JOHN TOLLMAN SHEFFIELD: They're not identified by the

5 tract...okay, sir.

6 BENNY WAMPLER: I don't think we have before us the 69 tracts at

7 all. You...I don't know how you did---.

8 JOHN MOSS: They don't track...we don't have them tracked by the

9 numbers the Board would assign to it.

10 JOHN TOLLMAN SHEFFIELD: Oh, I'm sorry. I apologize.

11 MARY QUILLEN: That doesn't identify...pardon me.

12 BENNY WAMPLER: That's all right. That's all right.

13 MARY QUILLEN: It doesn't identify what the---.

14 BENNY WAMPLER: I can't...I mean, I don't think we're able to

15 determine what...Mr. Wilson, I yield to you, may have had some discussions. But

16 I don't think, based on what we have before us, we're able identify the 69 tracts in

17 question. I'm going to give you a chance to respond, Mr. Swartz. I'm just trying

18 to---.

19 MARK SWARTZ: Well, you may deal with it before you get to me.

20 So---.

21 BENNY WAMPLER: ---get some basic...some basic information

22 here.

23 BOB WILSON: There have been prior actions taken regarding this.

24

1 Mr. Sheffield sent an inquiry to our office stating that...I don't have all this  
2 information with me, so please correct me if I...if I go wrong here. But, basically,  
3 stated that he had these 69 acre, or 69 tracts of land, in Buchanan County that he  
4 is not certain exactly where they are relative to units. He knows where his land is,  
5 but he doesn't have the units and this sort of thing such that he can place them  
6 relative to wells and that sort of thing. I think that information would reside  
7 with...in our permanent files or with the company. But he stated that he had been  
8 notified as an owner on a very few of these tracts where they had falling...falling  
9 into units but had not been notified as an owner in other units in which a part of  
10 this 69 tracts fell. Basically, he was claiming to us that the documentation that  
11 had been supplied by the company to the Division of Gas and Oil was incorrect  
12 and that it did not include him as owner...him or his Trusts and asked us to take  
13 action in that regard. We, when these things occur, routinely will then send a  
14 letter to the operator, in this case CNX, instructing them to do one of two things:  
15 Either to verify that the application materials and such that they had sent to the  
16 Division of Gas and Oil are true and correct to the best of their knowledge; or, if  
17 they find there have been mistakes and omissions, then they have to point those  
18 out to us and tell us how they're planning to correct them. They're subject to any  
19 enforcement action or such that we would take as a result of that. We received a  
20 letter back from CNX stating that they, in a nutshell, stuck by the information that  
21 they had previously submitted and would make no changes in that, which,  
22 basically, takes us out of it as the Division of Gas and Oil. I informed Mr.  
23 Sheffield of this and I think that was when he started exploring the possibility of  
24

1 coming before the Board and seeking relief here.

2 BENNY WAMPLER: Thank you. You know, I...you know, I'm...just  
3 open discussion here and with you as well. Until we have the 69 tracts, I mean, I  
4 think we...we don't have a valid petition. In courtesy, we'll continue this until you  
5 can do that---.

6 JOHN TOLLMAN SHEFFIELD: Yes, sir.

7 BENNY WAMPLER: ---until February or March...you give me a date  
8 and we'll do that so you don't have to file, you know, and pay money again.  
9 What's a reasonable date? You would have to identify the tracts for us to be able  
10 to do anything.

11 JOHN TOLLMAN SHEFFIELD: Yes, sir, I understand.

12 JOHN MOSS: I'll leave it up to him. He has got...he's the one flying  
13 in from Texas.

14 JOHN TOLLMAN SHEFFIELD: I would say we could have it done  
15 by March.

16 BENNY WAMPLER: Okay. We'll continue this until March.

17 JOHN TOLLMAN SHEFFIELD: Thank you.

18 BENNY WAMPLER: Thank you. Did you have anything, Mr.  
19 Swartz?

20 MARK SWARTZ: No.

21 BENNY WAMPLER: Thank you.  
22 (Benny Wampler confers with the Board.)

23 BENNY WAMPLER: Okay, we're going to take a ten minute break.

24

1 (Break.)

2 BENNY WAMPLER: The next item on the agenda is a petition from  
3 Equitable Production Company for pooling of a conventional unit P-550479. This  
4 is docket number VGOB-05-1213-1550. We'd ask the parties that wish to  
5 address the Board in this matter to come forward at this time. 1550.

6 DON HALL: I believe you skipped one.

7 DONALD RATLIFF: It's 13.

8 BENNY WAMPLER: I'm sorry.

9 MARY QUILLEN: Yes, it's 13.

10 BENNY WAMPLER: I'm sorry. I continued it, I guess, because I  
11 wanted to.

12 (Laughs.)

13 BENNY WAMPLER: Strike that. I just went ahead and continued  
14 that too. I got on a roll, I guess. Okay, the next item on the agenda is a petition  
15 from Equitable Production Company for pooling of coalbed methane unit VC-  
16 536771. This is docket number VGOB-05-1213-1549. We'd ask the parties that  
17 wish to address the Board in this matter to come forward at this time.

18 JIM KAISER: Now, Mr. Chairman, Jim Kaiser and Don Hall on  
19 behalf of Equitable Production Company.

20 BENNY WAMPLER: Okay, the record will show no others. You may  
21 proceed.

22 (Don Hall is duly sworn.)

23 JIM KAISER: We do have a revised plat for this one. Do you want  
24

1 to go ahead...you've already handed it out?

2 DON HALL: I've already passed it out.

3 BENNY WAMPLER: We've got a copy.

4 DON HALL: The purpose in the revised plat was the tract that  
5 we're...the subject tract that we're dealing with today is a point...it's called a .25,  
6 which actually calculates out to be a .29 acre tract that's shown as Tract 2 on this  
7 plat. Our original well location in this surface during our title examination and our  
8 original plat...original well was less than 750 feet from this tract. Since these  
9 parties own the coal, we had to move the well greater than 750 feet from the  
10 consent to stimulate standpoint and that's the purpose of this correct...this new  
11 plat.

12

13 DON HALL

14 having been duly sworn, was examined and testified as follows:

15 DIRECT EXAMINATION

16 QUESTIONS BY MR. KAISER:

17 Q. All right, Mr. Hall, then if you'd state your name for the  
18 Board, who you're employed by and in what capacity?

19 A. My name is Don Hall. I'm employed by Equitable  
20 Production Company as District Landman.

21 Q. Do your responsibilities include the land involved in this  
22 unit and in the surrounding area?

23 A. They do.

24

--

1 Q. Are you familiar with Equitable's application seeking to  
2 pool any unleased parties in the unit for well EPC VC-536771---?  
3 A. Yes.  
4 Q. ---which was dated November the 11th, 2005?  
5 A. Yes.  
6 Q. Okay. And does Equitable own drilling rights in the unit  
7 involved here?  
8 A. We do.  
9 Q. Prior to filing the application, were efforts made to contact  
10 each of the interest owners and an attempt made to work out a voluntary lease  
11 agreement with each of them?  
12 A. Yes.  
13 Q. And what is the interest under lease to Equitable in both  
14 the gas and coal estate within this unit?  
15 A. We have 99.51% leased.  
16 Q. So...so, there's no conflicting claims here, right?  
17 A. No.  
18 Q. And there is...what's the unleased portion of both the  
19 oil...gas estate and the coal estate?  
20 A. .4901%.  
21 Q. Okay. And we don't have any unknowns?  
22 A. No.  
23 Q. In your professional opinion, was due diligence exercised  
24

1 to locate each of the respondents named in Exhibit B?

2 A. Yes.

3 Q. Now, are the addresses set out in Exhibit B to the

4 application the last known addresses for the respondents?

5 A. They are.

6 Q. Are you requesting this Board to force pool all the

7 unleased interest, that being in Tract 2, as listed at Exhibit B-3?

8 A. Yes.

9 Q. Are you familiar with the fair market value of drilling rights

10 in this unit and the surrounding area?

11 A. Yes.

12 Q. Could you advise the Board as to what those are?

13 A. We pay a five dollar bonus on a five year term with a one-

14 eighth royalty.

15 Q. In your opinion, do the terms you just testified to represent

16 the fair market value of and fair and reasonable compensation to be paid for

17 drilling rights within this unit?

18 A. Yes.

19 Q. Now, as to those interest owners in Tract 2 who remain

20 unleased, do you agree that they be allowed the following statutory

21 options with respect to their ownership interest within the

22 unit: 1) Participation; 2) a cash bonus of five dollars per

23 net mineral acre plus a one-eighth of eight-eighths royalty;

24



1 or 3) in lieu of a cash bonus and one-eighth of eight-eighths  
2 royalty share in the operation of the well on a carried basis  
3 as a carried operator under the following conditions: Such  
4 carried operator shall be entitled to the share of production  
5 from the tracts pooled accruing to his interest exclusive of  
6 any royalty or overriding royalty reserved in any leases,  
7 assignments thereof or agreements relating thereto of such  
8 tracts, but only after the proceeds applicable to his or her  
9 share equal, A) 300% of the share of such costs applicable to  
10 the interest of the carried operator of a leased tract or  
11 portion thereof; or B) 200% of the share of such costs  
12 applicable to the interest of a carried operator of an  
13 unleased tract or portion thereof?

14 A. Yes.

15 Q. Do you recommend that the order provide that  
16 elections by the respondent be in writing and sent to the  
17 applicant at Equitable Production Company, 1710 Pennsylvania  
18 Avenue, Charleston, West Virginia 25302, and Ms. Pigeon here  
19 is a change for you, Attention: Leslie Smith, Regulatory?  
20 We're changing that from Melanie Freeman. Her duties have  
21 shifted.

22 L-E-L-I-E and the Smith. And should this be the address for  
23 all communications with the applicant concerning any force  
24

1 pooling order?

2 A. Yes.

3 Q. Do you recommend that the order provide that  
4 if no written elections was properly made by a respondent,  
5 then that respondent should be deemed to have elected the  
6 cash royalty option in lieu of any participation?

7 A. Yes.

8 Q. Should the unleased respondents be given 30  
9 days from the date that they receive the recorded Board order  
10 to file their written elections?

11 A. Yes.

12 Q. If an unleased respondent elects to  
13 participate, should they be given 45 days to pay the  
14 applicant for their proportionate share of well costs?

15 A. Yes.

16 Q. Does the applicant expect any party electing  
17 to participate to pay in advance that share of actual  
18 completed well costs?

19 A. Yes.

20 Q. Should the applicant be allowed a 120 days  
21 following the recordation date of the Board order and  
22 thereafter annually on that date until production is  
23 achieved, to pay or tender any delay rental or cash bonus

24

--

1 becoming due under the force pooling order?

2 A. Yes.

3 Q. Do you recommend that the order provide that  
4 if a respondent elects to participate but fails to pay their  
5 proportionate share of well costs, then their election to  
6 participate should be treated as having been withdrawn and  
7 void and that respondents should be treated just as if no  
8 election had been filed under the force pooling order, in  
9 other words, deemed to have leased?

10 A. Yes.

11 Q. Do you recommend that the order provide that  
12 where a respondent elects to participate but defaults in  
13 regard to payment of well costs, any sum becoming payable to  
14 that respondent be paid by the applicant or operator within  
15 60 days after the last date on which that respondent could  
16 have paid for those well costs?

17 A. Yes.

18 Q. Okay. In this particular case, we don't  
19 have conflicting claims to the coalbed methane and we don't  
20 have any unknown interest owners within the unit, so there is  
21 no requirement for an escrow on this well, correct?

22 A. That's correct.

23 Q. And who should be named operator under any  
24

1 force pooling order?

2 A. Equitable Production Company.

3 Q. What's the total depth of proposed well?

4 A. 2398 feet.

5 Q. And the estimated reserves for the unit?

6 A. 330 million cubic feet.

7 Q. And are you familiar with the well costs?

8 A. Yes.

9 Q. Has an AFE been reviewed, signed and  
10 submitted to the Board as Exhibit C?

11 A. It has.

12 Q. In your opinion, does it represent a  
13 reasonable estimate of the well costs?

14 A. Yes.

15 Q. Could you state for the Board both the dry  
16 hole costs and completed well costs for this well?

17 A. The dry hole costs is \$114,539 and the  
18 completed well costs is \$284,663.

19 Q. Do these costs anticipate a multiple  
20 completion?

21 A. They do.

22 Q. Does your AFE include a reasonable charge  
23 for supervision?

24

--

1           A.       Yes.

2           Q.       In your professional opinion, would the  
3 granting of this application be in the best interest of  
4 conservation, the prevention of waste and the protection of  
5 correlative rights?

6           A.       Yes.

7           MR. KAISER: Nothing further at this time of this  
8 witness, Mr. Chairman.

9           BENNY WAMPLER: Questions from members of the  
10 Board?

11           (No audible response.)

12           BENNY WAMPLER: Do you have anything further?

13           JIM KAISER: We'd ask that the petition be approved as submitted  
14 with the addition of the new plat.

15           BENNY WAMPLER: Is there a motion?

16           JIM McINTYRE: So moved.

17           PEGGY BARBAR: I second.

18           BENNY WAMPLER: Motion for approval and a second. Any further  
19 discussion?

20           (No audible response.)

21           BENNY WAMPLER: All in favor, signify by saying yes.  
22 (All members signify by saying yes, except Donald Ratliff.)

23           BENNY WAMPLER: Opposed, say no.

24

1                   DONALD RATLIFF: I abstain, Mr. Chairman.

2                   BENNY WAMPLER: Mr. Ratliff abstains. The next item on the  
3 agenda is a petition from Equitable Production Company for pooling of a  
4 conventional unit P-550479, docket number VGOB-05-1213-1550. We'd ask the  
5 parties that wish to address the Board in this matter to come forward at this time.

6                   JIM KAISER: Again, Mr. Chairman, Don Hall and Jim Kaiser for  
7 Equitable Production Company.

8                   BENNY WAMPLER: We have some others that are coming up.  
9 (Speakers come forward.)

10                  BENNY WAMPLER: I'd ask you both to state your name for the  
11 record, please.

12                  KENNETH TURNER: Kenneth Turner.

13                  REBECCA FLEMING: Rebecca Fleming.

14 (Kenneth Turner and Rebecca Fleming are duly sworn.)

15                  BENNY WAMPLER: You may proceed, Mr. Kaiser. We'll let him go  
16 and then you'll have a chance to ask questions and address the Board, okay?

17

18                                   DON HALL

19                                   DIRECT EXAMINATION

20 QUESTIONS BY MR. KAISER:

21                   Q.           Mr. Hall, again, state your name for the Board, who you're  
22 employed by and in what capacity?

23                   A.           Don Hall. I'm employed by Equitable Production Company

24

--

1 as District Landman.

2 Q. And your responsibilities include the land involving this unit  
3 and in the surrounding area?

4 A. Yes.

5 Q. And you're familiar with Equitable's application seeking the  
6 establishment of a unit and pooling of any unleased interest of EPC number P-  
7 550479, dated November the 11th, 2005?

8 A. Yes.

9 Q. Now, does Equitable own drilling rights in the unit involved  
10 here?

11 A. We do.

12 Q. Now, prior to filing the application, were efforts made to  
13 contact each of the respondents and an attempt made to work out a voluntary  
14 lease agreement?

15 A. Yes.

16 Q. What is the interest of Equitable under lease in this unit?

17 A. We have 89.8944% leased.

18 Q. And are the unleased parties set out at Exhibit B-3?

19 A. Yes.

20 Q. And are you familiar with the ownership of drilling rights of  
21 parties other than Equitable underlying this unit?

22 A. Yes.

23 Q. And what percentage of the unit that remains unleased?

24

--

1                   A.        10.1056%.

2                   Q.        Okay. Bear with me for a minute here.

3                   (Jim Kaiser reviews his notes.)

4                   Q.        Okay, we do have quite a few unknowns in this particular

5 unit, is that correct?

6                   A.        Yes.

7                   Q.        And were reasonable and diligent efforts made and

8 sources checked to identify and locate these unknown heirs including primary

9 sources such as deed records, probate records, assessor's records, treasurer's

10 records and secondary sources such as telephone directories, city directories,

11 family and friends?

12                  A.        Yes.

13                  Q.        In your professional opinion, was due diligence exercised

14 to attempt to locate each of the respondents named in Exhibit B?

15                  A.        Yes.

16                  Q.        Are the addresses set out in Exhibit B to the application the

17 last known addresses for the respondents?

18                  A.        Yes.

19                  Q.        Are you requesting this Board to force pool all unleased

20 interest listed in Exhibit B-3?

21                  A.        Yes.

22                  Q.        Again, are you familiar with the fair market value of drilling

23 rights in the unit here and in the surrounding area?

24



1 A. Yes.

2 Q. Again, could you advise the Board as to what those are?

3 A. We pay a five dollar bonus with a five year term with a  
4 one-eighth royalty.

5 Q. In your opinion, do the terms you just testified to represent  
6 the fair market value of and the fair and reasonable compensation to be paid for  
7 drilling rights within this unit?

8 A. They do.

9 JIM KAISER: Mr. Chairman, as to the statutory election options  
10 afforded the unleased parties, we would ask that...and their obligations and time  
11 frames in which to make those, we'd ask that the testimony just taken in docket  
12 number 05-1213-1549 be incorporated.

13 BENNY WAMPLER: That will be incorporated.

14 Q. Now, Mr. Hall, since we do have...even though it's a  
15 conventional well, since we do have a number of unknown interest owners, the  
16 Board does need to establish a escrow account.

17 JIM KAISER: And, I guess, Ms. Pigeon, if you want, I can go  
18 through and identify the tracts or...do you want me to do that or---?

19 SHARON PIGEON: Well, I'm not really doing the orders now.

20 JIM KAISER: Oh, that's right. I'm doing them. Yeah, okay, I can do  
21 that. They're listed at Exhibit E. All the unknown people that we have...is listed in  
22 Exhibit E.

23 BENNY WAMPLER: Tract 4?

24

--

1                    JIM KAISER: Yeah.

2                    Q.            And who should be named operator under the force

3 pooling order?

4                    A.            Equitable Production Company.

5                    Q.            And the total depth of the proposed well?

6                    A.            5854 feet.

7                    Q.            And the estimated reserves for the unit?

8                    A.            250 million cubic feet.

9                    Q.            Now, are you familiar with the costs for this well?

10                  A.            Yes.

11                  Q.            Has an AFE been reviewed, signed and submitted to the

12 Board as Exhibit C to this application?

13                  A.            It has.

14                  Q.            In your opinion, does it represent a reasonable estimate of

15 the well costs?

16                  A.            Yes.

17                  Q.            Could you state the dry hole costs and completed well

18 costs for this well?

19                  A.            The dry hole costs is \$254,265 and the completed well

20 costs is \$489,901.

21                  Q.            Do these costs anticipate a multiple completion?

22                  A.            They do.

23                  Q.            Does your AFE include a reasonable charge for

24

1 supervision?

2 A. Yes.

3 Q. In your professional opinion, would the granting of this  
4 application be in the best interest of conversation, the prevention of waste and the  
5 protection of correlative rights?

6 A. Yes.

7 JIM KAISER: Nothing further of this witness at this time, Mr.  
8 Chairman.

9 BENNY WAMPLER: You may go ahead and proceed, either one of  
10 you.

11 REBECCA FLEMING: Go ahead.

12 KENNETH TURNER: I've got a few questions I'd like to ask you. Is  
13 this...this projected well site on this...on this well to be drilled, is it still going to  
14 continue on the original site?

15 DON HALL: Do you mean the one that's...the site is the one that's  
16 on the map, yes.

17 KENNETH TURNER: On the 550479?

18 DON HALL: Yes.

19 KENNETH TURNER: That's the original site when it was...about  
20 thirty years ago was a mine?

21 DON HALL: I'm not sure if it has been moved or not.

22 KENNETH TURNER: Well, now, I'll tell you, about two years ago,  
23 you know, a guy by the name of Wayne Mannis---.

24

--

1           DON HALL: Uh-huh.

2           KENNETH TURNER: Okay. He was at my house.

3           DON HALL: Uh-huh.

4           KENNETH TURNER: He said that well site there was not feasible.

5   It was under the power lines. They couldn't get the equipment in there and that

6   well site was obsolete and could not be used.

7           DON HALL: Uh-huh.

8           KENNETH TURNER: However, there has been nobody back to my

9   house to renegotiate or to even state they had plans of drilling. So,

10   what's...what's the purpose of not...I mean---?

11          JIM KAISER: Sir, could I get your name again?

12          KENNETH TURNER: Kenneth Turner.

13          JIM KAISER: Kenneth Turner. You're leased, right?

14          KENNETH TURNER: Pardon?

15          JIM KAISER: You're leased?

16          KENNETH TURNER: Right.

17          JIM KAISER: You have a lease?

18          KENNETH TURNER: Uh-huh.

19          JIM KAISER: Okay.

20          KENNETH TURNER: I just own the surface, just the surface.

21          DON HALL: For the---.

22          JIM KAISER: Where the well is.

23          KENNETH TURNER: Where the well---.

24

1                   JIM KAISER: But you're also leased. I mean, you do own the oil  
2 and gas?  
3                   DON HALL: No, not on---.  
4                   JIM KAISER: Not on this...well, it says in here, don't it?  
5                   DON HALL: Well, he probably owns an interest in  
6 this---.  
7                   JIM KAISER: Oh, it's another tract, okay.  
8                   DON HALL: Yeah.  
9                   KENNETH TURNER: Yeah, right. I am an heir to the---.  
10                  DON HALL: Yeah.  
11                  KENNETH TURNER: ---John B. Turner.  
12                  DON HALL: Yeah.  
13                  KENNETH TURNER: But my interest was why I haven't...Wayne  
14 Mannis or some other represent representative come back to state where this well  
15 is going to be drilled?  
16                  DON HALL: I...I can't answer that. Wayne doesn't...he doesn't work  
17 for us anymore and he didn't work for me then. But we could check into it and get  
18 back with you.  
19                  BENNY WAMPLER: Is this...is this on your property?  
20                  KENNETH TURNER: Yes, sir, it is.  
21                  DON HALL: It's on the surface.  
22                  JIM KAISER: On the surface.  
23                  BENNY WAMPLER: Where it's currently platted, it's on your  
24

1 surface?

2 JIM KAISER: Yeah.

3 DON HALL: Yeah.

4 KENNETH TURNER: Yes, it is.

5 BENNY WAMPLER: Would any...would any location there be on his

6 surface, Mr. Hall?

7 DON HALL: I'm not sure. I don't know...how much do you own

8 there, Mr. Turner?

9 KENNETH TURNER: I own...I own the whole...I mean, anywhere on

10 that side of the road within...I mean, own, let's see, about 40 acres---

11 DON HALL: Uh-huh.

12 KENNETH TURNER: ---on that...on that...anywhere that it would be

13 feasible to drill a well on that side of the road would be on my property.

14 BENNY WAMPLER: Are there locations on that...on that...on your

15 property that's acceptable to you?

16 KENNETH TURNER: Yes. As a matter of a fact, I walked through

17 this with Mr. Mannis and I told him I would be...I mean, there would be no problem

18 of obtaining a site of giving him permission to drill that well. However, it has been

19 two years ago and I haven't seen or heard from him since. It seems to me like the

20 plans are going forward---

21 JIM KAISER: Well---

22 KENNETH TURNER: ---to drill this well without---

23 JIM KAISER: Well, you've got some protection. Have you received

24

1 a permit application...a copy of a permit application?

2 KENNETH TURNER: Not that...not that I know...not that I know of.

3 JIM KAISER: Don, do you know if the permit has been applied for?

4 DON HALL: I think it has already been permitted. You should

5 have...you should have gotten the permit appli...permit application.

6 KENNETH TURNER: I have no knowledge of...of getting any

7 material in the mail except this...this hearing. There has definitely been no

8 compensation.

9 DON HALL: Well, Mr. Heflin is here for another hearing today and

10 that's his part...that's his side of the---.

11 JIM KAISER: Do you want go get him?

12 DON HALL: Yeah, we need...you really need to talk with him

13 regarding that about no one getting in touch with you.

14 JIM KAISER: See, the permitting process and the force pooling

15 process are really two separate things.

16 KENNETH TURNER: Well, shouldn't...I mean, as far as

17 business...business like procedures, shouldn't you...shouldn't you have this well

18 site acquired before you make plans on drilling a well?

19 DON HALL: We should have and it was my understanding that we

20 had. But if it hasn't happened, then we need to make it happen.

21 KENNETH TURNER: There was an original agreement made

22 between the previous landowner before me. But, as I said, Mr. Mannis said that

23 that site was not feasible to use. As a matter of a fact, it's practically under the

24

1 power line and, therefore, it was important to him, I don't know if it is to anybody  
2 else or not, it was important to him to acquire a different site.

3 JIM KAISER: Yeah.

4 DON HALL: Well, like I said, he doesn't work for us anymore. But  
5 I'll...we can definitely---.

6 JIM KAISER: We can find out all this.

7 DON HALL: We can find out all of this information. Mr. Heflin is  
8 here---.

9 JIM KAISER: Before we leave here.

10 DON HALL: ---now. He can...he can discuss with you.

11 KENNETH TURNER: I don't know if it matters to you, again, or not,  
12 but the...according to Mr. Mannis, the line from the well was going to go and  
13 intercept with the existing line on down the---.

14 DON HALL: Right.

15 KENNETH TURNER: ---the woods, which would cover...which  
16 would go right on through my property.

17 DON HALL: The pipeline you're talking about?

18 KENNETH TURNER: Right.

19 JIM KAISER: Yeah.

20 KENNETH TURNER: Uh-huh. Which that hasn't been discussed as  
21 far as compensation either.

22 DON HALL: I have...the old location may have been permitted. I'm  
23 not...I'm not sure...I've got a note here that it has been permitted, but it may have  
24



1 been the original---.

2 KENNETH TURNER: It was permitted...yeah, right. It has been

3 permitted from the previous owner, which---.

4 JIM KAISER: Probably permitted and expired.

5 DON HALL: Yeah.

6 KENNETH TURNER: Which Mr. Mannis declared that it

7 was---.

8 DON HALL: That location.

9 KENNETH TURNER: It ain't no way that they could drill a well

10 there.

11 DON HALL: I understand.

12 KENNETH TURNER: And that's...and that's all I have.

13 DON HALL: Okay.

14 BENNY WAMPLER: Go ahead.

15 REBECCA FLEMING: Well, mine is pretty simple too. About twenty

16 years ago---.

17 JIM KAISER: Would you state your name again, please?

18 REBECCA FLEMING: Rebecca Fleming.

19 JIM KAISER: Rebecca Fleming.

20 REBECCA FLEMING: About twenty years ago, it's under Rebecca

21 Woods on the paper, I signed some documents. My mom was an heir to this land.

22 I signed some documents that stated that they would drill a well and I would get

23 so much, you know...not a lot of money a month, but a little tiny bit of money a

24

1 month. Since I've signed the papers, I have...I have received nothing. I know my  
2 father didn't. He was in prison. It says on here that it's unleased. But I do know  
3 that I signed the documents. Like I said, it has been probably twenty years ago.

4 DON HALL: It may have expired.

5 REBECCA FLEMING: You know, I'm like him, I didn't receive  
6 anything else. But I never received anything. I've tried contacting people. I even  
7 had the well site numbers. I tried contacting Equitable and they gave me the run  
8 around or they told me that, you know, they didn't know the site or, you  
9 know...and---.

10 JIM KAISER: Well, the way...I might be able to answer that for you.  
11 I don't know whether or not it was leased or unleased. But if you had a lease and  
12 weren't getting anything, it's probably because you were a remainderment.  
13 Vonzel Woods would that be your mother?

14 REBECCA FLEMING: That would be my father.

15 JIM KAISER: Your father?

16 REBECCA FLEMING: My mother is...was deceased at the time.

17 JIM KAISER: This says widow. But anyway, whoever...if it was a  
18 life estate in the case of a lease, they would have received any delay rentals.

19 REBECCA FLEMING: No, he was...he was in prison and it was all  
20 signed over to me. My guardian was there. She has not received anything.

21 JIM KAISER: We can check into that.

22 REBECCA FLEMING: There has...I mean, I have...there has been  
23 no money that has came to me or anybody associated with me.

24

--

1                   DON HALL: Were you...were you under age twenty  
2 years ago?  
3                   REBECCA FLEMING: Yes...yes, I was.  
4                   DON HALL: Was there a court appointed---?  
5                   REBECCA FLEMING: Yes.  
6                   DON HALL: ---guardian ad litem?  
7                   REBECCA FLEMING: Yes. There was a court appointed guardian.  
8                   DON HALL: I think probably the payment was made as a one time  
9 payment then and we haven't drilled the well yet. So, therefore, there has been  
10 no further money involved.  
11                  REBECCA FLEMING: There was no payment then, not that I...not  
12 that I am aware of, there was never a payment. There was to my uncle and my  
13 aunt, but that had nothing to do...they're on that tract also, Victor and Patsy Willis.  
14                  DON HALL: Yeah.  
15                  REBECCA FLEMING: They're on the same tract. But it had nothing  
16 to do with me personally.  
17                  JIM KAISER: We can check into that.  
18                  DON HALL: Yeah, we can check.  
19                  REBECCA FLEMING: As I said, I've called. I've done everything.  
20                  JIM KAISER: It's such a small undivided interest, it probably was  
21 just a one time payment of, you know, whatever, \$25 or something.  
22                  DON HALL: It was probably...probably paid to the guardian ad litem  
23 or to your mother.  
24

1                   JIM KAISER: It's a .150---.

2                   REBECCA FLEMING: My mother was dead.

3                   JIM KAISER: ---100%.

4                   DON HALL: Or your father.

5                   REBECCA FLEMING: My father was in prison.

6                   DON HALL: Okay. I don't know.

7                   BENNY WAMPLER: I think the reasonable thing to do here is

8 continue it to next month, if that's enough time, and let you all work with these

9 folks and come back and---.

10                  JIM KAISER: Well, I would disagree with that. I don't think either

11 one of these objections have anything to do with the force pooling hearing. I'm

12 not trying to be rude or---.

13                  BENNY WAMPLER: Well, you can be rude.

14                  (Laugh.)

15                  BENNY WAMPLER: I'll give you permission to be rude to me.

16                  JIM KAISER: I mean, his is a permitting issue...you know, his is a

17 permitting issue---.

18                  BENNY WAMPLER: Not with them, but with me if you want to.

19                  JIM KAISER: His is a permit issue regarding the surface and hers

20 is, you know...is an issue whether or not...you know, that's just a contractual issue

21 that you don't have jurisdiction over either. I think both of their objections are non

22 jurisdictional to this hearing.

23                  DON HALL: But we will continue to---.

24

--

1           JIM KAISER: But we'll figure it out for both of them.

2           DON HALL: Yeah.

3           JIM KAISER: In fact, George Heflin will address his right away and  
4 then Don will just have to call their division order people and find out where that  
5 payment went and what the status of that lease from twenty years ago was.  
6 Apparently, we're under the impression that it has expired since we're force  
7 pooling her now, that interest is unleashed. But, in my opinion, both those  
8 objections are non-jurisdictional.

9           SHARON PIGEON: Whether they're jurisdictional---?

10          BENNY WAMPLER: You may be right. I'm sorry.

11          SHARON PIGEON: I was just going to say, whether they're  
12 jurisdictional or not, I think they have a right to continue it to obtain more  
13 information.

14          KENNETH TURNER: Did you say that the---?

15          JIM KAISER: It's not going to affect this.

16          KENNETH TURNER: Did you say the guy that...that he's going to  
17 be here later on today or---?

18          JIM KAISER: He's here now.

19          BENNY WAMPLER: He's here.

20          JIM KAISER: We can go get him and address that issue right away,  
21 if you want us to. But, again, it's a permitting issue.

22          KENNETH TURNER: It sure would be helpful to me. I don't---.

23          JIM KAISER: Her issue is a lease issue, which is a contractual

24

1 issue. I mean---.

2 BENNY WAMPLER: We understand that, you know. But we have  
3 people that come here and the only way they had notice was for the Board.

4 JIM KAISER: What I'm saying is, it's non-jurisdictional. You don't  
5 have the right to continue it, in my opinion.

6 BENNY WAMPLER: We always have the right to continue. We can  
7 continue every item you have, if wanted to. You're before a Board that always  
8 has the right to...do you think---?

9 JIM KAISER: Right. Well...but, I mean, what are you going to gain  
10 from...then my question to you is, what are you going to gain from it and what are  
11 they going to gain from it?

12 BENNY WAMPLER: Well, I'll not...I'm not going to sit here and  
13 argue with you. I'll let the Board decide if they want to continue this case or not.

14 KENNETH TURNER: If we could...anyway possible we could get an  
15 answer today, it would sure save me fifty miles of---.

16 DON HALL: We can take care of that.

17 JIM KAISER: Yeah, we won't...we won't make you have to come  
18 back here necessarily, if we take care of your problem before January when this  
19 would be continued to.

20 KENNETH TURNER: You don't have no projection time to start this  
21 well?

22 DON HALL: Probably...probably early next year.

23 KENNETH TURNER: Early of 2006?

24

--

1                   DON HALL: Yeah.

2                   JIM KAISER: We'll...we'll do whatever the Board wants. I'm not  
3 trying to be pushy or arrogant. I just...I don't understand.

4                   BENNY WAMPLER: Well, to the extent we can get things resolved,  
5 we won't have a problem. But to the extent we can't get them resolved, we've got  
6 a...you know, I've got a problem. I don't know if the rest of the Board does or not.  
7 We'll find out, if you want to put it to a vote.

8                   JUDY TURNER: Excuse me. May I add to this?

9                   BENNY WAMPLER: State your name for the---.

10                  JUDY TURNER: My name is Judy Turner. Kenneth Turner is my  
11 husband.

12                  (Judy Turner is duly sworn.)

13                  JUDY TURNER: What I...what I'm not understanding is if  
14 this...doesn't pertain to us, why were we sent papers to come to this meeting and  
15 then we've got other papers from Equitable saying...more or less stating to other  
16 people that you already have a deal with us to put a well on our property. No, you  
17 don't.

18                  JIM KAISER: Well, I think George can...maybe Mr. Heflin can  
19 address that. You were noticed to this hearing because you do have an interest  
20 in the oil and gas within this unit. It's a conventional well. Even though you're  
21 leased, we still have to notice you, okay? That's why you...you got notice of this  
22 hearing.

23                  JUDY TURNER: But then...but then when we come up with our  
24

1 questions, you're acting like that our questions---.

2 JIM KAISER: I'm not saying they're not important. I'm just saying---.

3 JUDY TURNER: ---shouldn't even be answered.

4 JIM KAISER: ---there's...this is a bifurcated process. There is a

5 permitting process and a force pooling process. Surface questions are addressed

6 in the permitting process.

7 JUDY TURNER: We sent questions to two people and nobody

8 answers us. I mean, we've asked questions and we don't get answers unless we

9 come here.

10 DON HALL: I...I don't know about the questions.

11 JUDY TURNER: I mean, I realize that we are lay people. We're not

12 attorneys. We've never done this before and we don't know the full procedures.

13 But I don't like being notified to tell me that I can come here and my questions will

14 be answered and then when we ask a question, we're...it's like, well, who are you

15 to even ask these questions?

16 JIM KAISER: Well, that's certainly not the impression I was trying to

17 create.

18 JUDY TURNER: That's the impression that I'm getting.

19 JIM KAISER: Well, that's...I'm sorry about that. That's the wrong

20 impression.

21 JOSE SIMON: Mr. Chairman, may I?

22 BENNY WAMPLER: Yes, Mr. Simon.

23 JOSE SIMON: I think a one month continuance and let them work

24



1 things out.

2 JIM KAISER: That's fine. Let's go

3 JOSE SIMON: There seems there is an issue.

4 JUDY TURNER: This costs us money too.

5 JIM KAISER: Well, I know.

6 JUDY TURNER: I mean, we---.

7 JIM KAISER: That's why I don't want to continue it.

8 JUDY TURNER: Well, I agree.

9 JIM KAISER: We can answer your questions.

10 JUDY TURNER: It costs...it costs us money to come from Haysi

11 also. I mean, it's seventy miles one way trip for us.

12 JIM KAISER: And, hopefully, Mrs. Turner, your questions we'll be

13 able to answer without you having to come back. We'll certainly try to. In fact, if

14 you'll hang around until we're done, you know, Mr. Heflin maybe can get it worked

15 out today. Okay?

16 JUDY TURNER: I would appreciate it.

17 KENNETH TURNER: I would be happy to wait.

18 JIM KAISER: Okay.

19 KENNETH TURNER: We'd be happy to wait.

20 DON HALL: And we'll look into your situation.

21 REBECCA FLEMING: Do you need my new address?

22 DON HALL: Yeah.

23 REBECCA FLEMING: I mean, as I said, it may be (inaudible) to

24

1 you. But twenty years ago, that was a lot to a small child.

2 BENNY WAMPLER: Any objection from members of the Board to a  
3 continuation until January?

4 (No audible response.)

5 BENNY WAMPLER: It's continued. The next item on the agenda is  
6 a---.

7 REBECCA FLEMING: Which day in January?

8 BENNY WAMPLER: I don't know that.

9 COURT REPORTER: The third Tuesday.

10 BENNY WAMPLER: It would be the third Tuesday.

11 JIM KAISER: The 17th.

12 DON HALL: The 17th I believe it is.

13 BENNY WAMPLER: The next item on the agenda is a petition from  
14 Equitable Production Company for pooling of coalbed methane unit VC-550289.  
15 This is docket number VGOB-05-1213-1551. We'd ask the parties that wish to  
16 address the Board in this matter to come forward at this time.

17 JIM KAISER: Jim Kaiser and Don Hall on behalf of Equitable  
18 Production.

19 BENNY WAMPLER: The record will show no others. You may  
20 proceed.

21

22 DON HALL

23 DIRECT EXAMINATION

24

--

1 QUESTIONS BY MR. KAISER:

2 Q. Mr. Hall, if you'd again state your name for the Board, who  
3 you're employed by and in what capacity?

4 A. My name is Don Hall. I'm employed by Equitable  
5 Production Company as District Landman.

6 Q. And you're familiar with the application we filed seeking a  
7 pooling order for the well number VC-550289 dated November the 11th, 2005?

8 A. Yes.

9 Q. Does Equitable own drilling rights in the unit involved  
10 here?

11 A. We do.

12 Q. Prior to filing the application, were efforts made to contact  
13 each of the respondents in the unit and an attempt made to work out...made to  
14 work out a voluntary lease agreement?

15 A. Yes.

16 Q. And, I guess, we don't have any conflicting claims in this  
17 one either?

18 A. No.

19 Q. So, what is the interest under lease to Equitable in both the  
20 gas estate and the coal estate in this unit?

21 A. 97.9799%

22 Q. And are all the unleased parties set out in Exhibit B-3?

23 A. Yes.

24

--

1 Q. And you're familiar with the ownership of drilling rights of  
2 parties other than Equitable underlying this unit?

3 A. Yes.

4 Q. And what interest is that?

5 A. 2.0201%.

6 Q. Okay. We don't have any conflicting claimants. We don't  
7 have any unknown owners. Are the addresses set out in Exhibit B to the  
8 application the last known addresses for the respondents?

9 A. Yes.

10 Q. Are you requesting this Board to force pool all unleased  
11 interest as listed at Exhibit B-3?

12 A. Yes.

13 Q. Are you familiar with the fair market value of drilling rights  
14 in the unit here and in the surrounding area?

15 A. Yes.

16 Q. Could you, again, advise the Board as to what those are?

17 A. We pay a five dollar bonus on a five year term with a one-  
18 eighth royalty.

19 Q. In your opinion, do the terms you just testified to represent  
20 the fair market value of, fair and reasonable compensation to be paid for drilling  
21 rights within this unit?

22 A. They do.

23 JIM KAISER: Mr. Chairman, at this time, we'd again ask that the  
24

1 election options afforded unleased parties and their time frames in which to make  
2 those and the ramifications thereof, which was previously taken in docket number  
3 05-1213-1549, be incorporated for purposes of this hearing.

4 BENNY WAMPLER: That will be incorporated.

5 Q. Mr. Hall, we have established...we do not need to...the  
6 Board does not need to create an escrow account for this unit?

7 A. That's correct.

8 Q. And who should be named operator under the force  
9 pooling order?

10 A. Equitable Production Company.

11 Q. And what is the total depth of the proposed well?

12 A. 2387 feet.

13 Q. Estimated reserves?

14 A. 200 million cubic feet.

15 Q. Has an AFE been reviewed, signed and submitted to the  
16 Board?

17 A. Yes.

18 Q. In your opinion, does it represent a reasonable estimate of  
19 the well costs?

20 A. It does.

21 Q. Would you state for the Board both the dry hole costs and  
22 completed well costs for this well?

23 A. The dry hole costs is \$127,757. The completed well costs  
24

1 is \$302,812.

2 Q. Do these costs anticipate a multiple completion?

3 A. They do.

4 Q. Does your AFE include a reasonable charge for  
5 supervision?

6 A. Yes.

7 Q. In your professional opinion, would the granting of this  
8 application be in the best interest of conservation, the prevention of waste and the  
9 protection of correlative rights?

10 A. Yes.

11 JIM KAISER: Nothing further of this witness at this time, Mr.  
12 Chairman.

13 BOB WILSON: Mr. Chairman.

14 BENNY WAMPLER: Mr. Wilson.

15 BOB WILSON: For the record, I'd like to acknowledge the receipt of  
16 a letter from Mr. Gary D. Ball relative to this pooling application. That letter, I  
17 believe, was included in the package that was sent to the Board members. Each  
18 of you should have that.

19 BENNY WAMPLER: Do you have that, Mr. Kaiser?

20 JIM KAISER: Yes.

21 DON HALL: Uh-huh.

22 JIM KAISER: I was going to bring that up if you asked me if there  
23 was anything further. In case, you know, somebody did---.

24

--

1                   BENNY WAMPLER: Do you want to address anything in here?

2                   JIM KAISER: Mr. Ball is a guy that we have been working with for,  
3 oh, gosh, probably ten or fifteen years, yet never been able to work anything out  
4 with him to his satisfaction. We've force pooled him many times in the past.  
5 Apparently, now, he's trying to sell his interest on eBay. I got on there and tried to  
6 find it and couldn't.

7                   JOSE SIMON: He said he got a \$11 bid.

8                   JIM KAISER: Yeah. I mean, I don't quite understand his reasoning  
9 there. I mean, I don't know why he didn't take that. In particular, he said he didn't  
10 take it because they found out that we were going to drill a well. Well, whoever  
11 was buying it would probably be pretty interested in that. They wouldn't get any  
12 money unless we did drill a well. So, we've tried, tried and tried with this guy  
13 for...gosh, every since I've been doing this. He always writes letters and then he  
14 never comes to the hearing. We force pool him and we either escrow him if he is  
15 a conflicting claimant, or we pay him if he's not.

16                  BENNY WAMPLER: Other questions from members of the Board?

17                  (No audible response.)

18                  BENNY WAMPLER: Do you have anything further?

19                  JIM KAISER: No. We'd ask that the application be approved as  
20 submitted, Mr. Chairman.

21                  BENNY WAMPLER: Is there a motion?

22                  JOSE SIMON AND JAMES McINTRYE: So moved.

23                  PEGGY BARBAR: I'll second.

24

--

1           BENNY WAMPLER: Motion is second. Any further discussion?  
2           (No audible response.)  
3           BENNY WAMPLER: All in favor, signify by saying yes.  
4           (All members signify by saying yes, but Donald Ratliff.)  
5           BENNY WAMPLER: Opposed, say no.  
6           (No audible response.)  
7           BENNY WAMPLER: You have approval.  
8           DONALD RATLIFF: I'll abstain, Mr. Chairman.  
9           BENNY WAMPLER: One abstention, Mr. Ratliff. The next item on  
10 the agenda is a petition from Equitable Production Company for a well location  
11 exception for proposed well V-536849, docket number VGOB-05-1213-1552.  
12 We'd ask the parties that wish to address the Board in this matter to come forward  
13 at this time.  
14           JIM KAISER: Again, Mr. Chairman and Board members, Jim Kaiser  
15 and Don Hall on behalf of Equitable Production Company.  
16           BENNY WAMPLER: The record will show no others. You may  
17 proceed.  
18  
19   DON HALL  
20   DIRECT EXAMINATION  
21 QUESTIONS BY MR. KAISER:  
22           Q.       Don, do your responsibilities with Equitable include the  
23 land involved in this unit?  
24



1 A. Yes.

2 Q. Are you familiar with the application we filed seeking a  
3 location exception for well V-536849?

4 A. Yes.

5 Q. Have all interested parties been notified as required by  
6 Section 4(B) of the Virginia Gas and Oil Board Regulations?

7 A. They have.

8 Q. Could you indicate for the Board the ownership of the oil  
9 and gas underlying this unit?

10 A. Equitable owns a 100%.

11 Q. Does Equitable have the right to operate the reciprocal  
12 well or wells?

13 A. We do.

14 Q. Okay. Are there any correlative rights issues?

15 A. No.

16 Q. Okay. Now, we don't have an exhibit, but I think you can  
17 explain for the Board why we're having to seek this exception.

18 A. This exception is on the Forest...United States Forest  
19 Service. It's part of the EIS that we've been working with for years. This is where  
20 they chose for us to put the well.

21 Q. So, it's a location that was picked by the Forest Service?

22 A. That's correct.

23 Q. Okay. In the event this location exception were not  
24

1 granted, would you project the estimated loss of reserves resulting in waste?

2 A. 350 million cubic feet.

3 Q. And what's the total depth of the proposed well under the  
4 plan of development?

5 A. 4257 feet.

6 Q. Are you requesting that this location exception cover  
7 conventional gas reserves to include the designated formations from the surface  
8 to the total depth drilled?

9 A. Yes.

10 Q. In your opinion, would the granting of this location  
11 exception be in the best interest of preventing waste, protecting correlative rights  
12 and maximizing the recovery of the gas reserves underlying the unit for V-  
13 536849?

14 A. Yes.

15 JIM KAISER: Nothing further of this witness at this time, Mr.  
16 Chairman.

17 BENNY WAMPLER: Questions from members of the Board?

18 (No audible response.)

19 BENNY WAMPLER: Do you have anything further?

20 (No audible response.)

21 BENNY WAMPLER: We'd ask that the application be approved as  
22 submitted.

23 DONALD RATLIFF: Move to approve it, Mr. Chairman.

24

--

1           BENNY WAMPLER: Motion to approve. Is there a second?  
2           JIM McINTYRE: Second.  
3           BENNY WAMPLER: Second. Any further discussion?  
4           (No audible response.)  
5           BENNY WAMPLER: All in favor, signify by saying yes.  
6           (All members signify by saying yes.)  
7           BENNY WAMPLER: Opposed, say no.  
8           (No audible response.)  
9           BENNY WAMPLER: You have approval. The next item on the  
10 agenda is a petition from Equitable Production Company for a well location  
11 exception for proposed well V-3...V-536766, docket number VGOB-05-1213-1553.  
12 We'd ask the parties that wish to address the Board in this matter to come  
13 forward.  
14           JIM KAISER: Again, Mr. Kaiser and Mr. Hall for Equitable  
15 Production Company.  
16           BENNY WAMPLER: The record will show no others. You may  
17 proceed.  
18  
19                                   DON HALL  
20                                   DIRECT EXAMINATION  
21 QUESTIONS BY MR. KAISER:  
22           Q.           Mr. Hall, does your responsibilities include the land  
23 involved in this unit and the surrounding area?  
24

1 A. Yes.

2 Q. Are you familiar with the application we filed seeking a  
3 location exception for well V-536766?

4 A. Yes.

5 Q. Are all interested parties been notified as required by  
6 section 4(B) of the Virginia Gas and Oil Board Regulations?

7 A. They have.

8 Q. Could you indicate for the Board the ownership of the oil  
9 and gas underlying this unit?

10 A. Equitable owns a 100%.

11 Q. And does Equitable have the right to operate the reciprocal  
12 wells?

13 A. We do.

14 Q. And are there any correlative rights issues?

15 A. No.

16 Q. Okay. Now, in conjunction with the exhibit that you  
17 prepared and just passed out to the Board, can you explain to them why we need  
18 this location exception?

19 A. If you notice on the exhibit, the wells that are colored green  
20 have a radius circle of 2500 feet around each, which is the spacing...the minimum  
21 spacing from other wells. The one well that we're too close to is 535655. To get  
22 a legal location from 5655, the...the well...or 6766 would have to be moved into  
23 the area where you see the red outline, sort of an L shape on the plat here. To

24

1 get a legal location, we'd have to move it down there. That area there has 45 to  
2 50% slope and it's right above the creek and not a good place to put the well. So,  
3 we chose to put it on top of the ridge there where it would create less  
4 environmental problems.

5 JIM KAISER: Are there any questions on exhibit before I go  
6 forward?

7 DONALD RATLIFF: Mr. Chairman.

8 BENNY WAMPLER: Mr. Ratliff.

9 DONALD RATLIFF: 5655 is proposed...that's not drilled? But that  
10 has already been permitted and approved?

11 DON HALL: It's permitted. It has not been drilled.

12 BENNY WAMPLER: Where is this area?

13 DON HALL: It's...it's over in Priest Fork. Over...do you know where  
14 Sportman's Lake is? Priest Fork turns up right there. It's up on the mountain  
15 above Priest Fork.

16 BENNY WAMPLER: Are we...are we getting enough information in  
17 those areas to need to do any Field Rules or anything like that?

18 DON HALL: No, I don't...I don't think so. Not at this point.

19 BENNY WAMPLER: Any other questions from members of the  
20 Board?

21 (No audible response.)

22 BENNY WAMPLER: Do you have anything further?

23 JIM KAISER: Yes, sir.

24

--

1 Q. In the event the location...location exception were not  
2 granted, would you project the estimated loss of reserves?  
3 A. 200 million cubic feet.  
4 Q. And the total depth of the proposed well?  
5 A. 6475 feet.  
6 Q. And you're requesting that this location exception cover  
7 conventional gas reserves to include designated formations from the surface to  
8 the total depth drilled?  
9 A. Yes.  
10 Q. In your opinion, would the granting of this location  
11 exception be in the best interest of preventing waste, correlative rights and, in  
12 particular, maximizing the recovery of the gas reserves underlying the unit for V-  
13 536766?  
14 A. Yes.  
15 JIM KAISER: Nothing further of this witness at this time, Mr.  
16 Chairman.  
17 BENNY WAMPLER: Do you want that marked as Exhibit A or what  
18 have you? What are you---?  
19 JIM KAISER: Well, let's see, I think we...let's make it C.  
20 BENNY WAMPLER: Exhibit C, okay. Other questions from  
21 members of the Board?  
22 (No audible response.)  
23 BENNY WAMPLER: Do you have anything further?  
24

1                   JIM KAISER: Mr. Chairman, we'd ask that the application be  
2 approved as submitted.

3                   BENNY WAMPLER: Is there a motion?

4                   JIM McINTYRE: So moved.

5                   JOSE SIMON: Second.

6                   BENNY WAMPLER: Motion is second. Any further discussion?  
7 (No audible response.)

8                   BENNY WAMPLER: All in favor, signify by saying yes.  
9 (All members signify by saying yes, but Donald Ratliff.)

10                  BENNY WAMPLER: Opposed, say no.  
11 (No audible response.)

12                  BENNY WAMPLER: You have approval.

13                  DONALD RATLIFF: I'll abstain, Mr. Chairman.

14                  BENNY WAMPLER: One abstention, Mr. Ratliff. The next item on  
15 the agenda is a petition from...yes?

16                  JIM KAISER: We're still waiting for our land witness. I thought...I  
17 told him to be here by 10:30 on those last two. Do you want me to go check with  
18 George and see maybe if that number one is ready?

19                  BENNY WAMPLER: You can---.

20                  JIM KAISER: I've got another...Mr. Talkington is coming in. When  
21 we have unleased parties other than EOG, we've been using him because he's  
22 the one that's trying to lease those on those parties.

23                  BENNY WAMPLER: Okay. And if...you know, if your guys have

24

--

1 solved the problem on the one that we continued...that you didn't want to  
2 continue, they can come in and tell us that.

3 JIM KAISER: Yeah. And I apologize if my behavior was bad.

4 BENNY WAMPLER: Well, you flared up a little bit.

5 JIM KAISER: Yeah.

6 BENNY WAMPLER: We can deal with you.

7 JIM KAISER: It has been a long morning already. Can we take a  
8 short recess and we'll go see what we've got out here?

9 BENNY WAMPLER: Sure.

10 (Break.)

11 BENNY WAMPLER: You're going to update us on the discussions  
12 you've had.

13 JIM KAISER: Mr. Chairman, we've had some discussions with both  
14 the Turners and...oh, gosh, what was the young lady's name?

15 GEORGE HEFLIN: Fleming.

16 BENNY WAMPLER: Ms. Fleming.

17 JOSE SIMON: Rebecca Woods.

18 JIM KAISER: Yeah, with Ms. Rebecca Woods.

19 JOSE SIMON: Fleming.

20 JIM KAISER: We'd like to at least go back on the record and see if  
21 you agree with what we've talked about and what we've got worked out. In order  
22 to do that, I'm going to need these two gentleman both to be sworn in also.

23 (George Heflin and Keith Wishoun are duly sworn.)

24



1                   JIM KAISER: I guess George wasn't in here. Item number fourteen  
2 was continued based on objections by Ms. Woods regarding whether or not...what  
3 happened to her potential delay rental payment from a lease that was some time  
4 ago and has expired, based on our title work, because we were pooling her and  
5 the other undivided interest in that tract as unleased parties. She had some  
6 discussions in the hallway, while we were doing our other hearings, with Keith.  
7 Keith, you can just tell me what you two resolved. She has left or we'd have her in  
8 here.

9                   KEITH WISHOUN: Yeah. She, basically just gave her new name,  
10 Rebecca Fleming, and her address and told me to send her a new lease and, you  
11 know, she would sign it and send it back.

12                  JIM KAISER: And in the meantime, Don Hall or George, somebody  
13 will check with the Division Order people, assuming it's...if it was that long ago,  
14 assuming it's still somewhere on a computer or in a ledger book or something and  
15 find out where that payment for that first lease would have gone. But  
16 apparently...it probably went to a guardian. For whatever reason, she never got it.

17                  BENNY WAMPLER: You need to provide her that information.

18                  JIM KAISER: Yeah, provide her that information.

19                  KEITH WISHOUN: If that lease was with us. It might have been  
20 with Virginia Gas because I had some in that area.

21                  JIM KAISER: Assuming the lease was with Equitable. He said it  
22 could have been a Virginia Gas lease.

23                  KEITH WISHOUN: Since it has been so long ago. I think I had a  
24

1 few more in that area like that.

2 JIM KAISER: They were Virginia Gas?

3 KEITH WISHOUN: I'm wanting to think so, but I might be wrong.

4 JIM KAISER: Anyway, we're try to get her all that information so she  
5 can---.

6 BENNY WAMPLER: If you will, give Mr. Wilson a copy of that.

7 JIM KAISER: ---be rest assured on that. Okay, then the second  
8 issue was Mr. and Mrs. Turner who own the surface on the drill site tract and then  
9 do own some oil and gas on some of the non-drill site tracts, but it is leased to  
10 Equitable. Their question was, you know, we got notice of this force pooling. We  
11 don't really understand what's going on because, you know, you guys came out  
12 and talked to us sometime ago and, you know, we didn't want to have a location in  
13 a certain area because of some power lines and some other issues; and now we  
14 get this and nobody has talked to us subsequent to that. Mr. Heflin, who handles  
15 the permitting in Virginia for Equitable, has talked to them about that. I guess, I'll  
16 let him talk about their discussion or maybe even ask Mr. and Mrs. Turner some  
17 questions to try to clear that up.

18 GEORGE HEFLIN: Mr. and Mrs. Turner and I discussed the well  
19 location itself, the access road and the pipeline. They were thinking that this  
20 hearing was taking care of the issues on the surface damages. I've talked with  
21 the Turners and we are going to sit down with them and make sure we get  
22 everything worked out and explain to them everything on the site, pipeline, access  
23 and, hopefully, get everything squared away to everybody's satisfaction.

24

--

1                   SHARON PIGEON: What was your name, again?

2                   GEORGE HEFLIN: George Heflin.

3                   BENNY WAMPLER: Are you satisfied with that?

4                   KENNETH TURNER: Satisfied.

5                   JUDY TURNER: Yes.

6                   BENNY WAMPLER: Well, we were continue...we were continuing it.

7       We agreed to rehear it today for your benefit. Mr. Kaiser, we could have made

8       your wait real easy.

9                   (Laughs.)

10                  JUDY TURNER: Well, I agree I can get my feathers ruffled real

11       quick.

12                  BENNY WAMPLER: We don't need that. It's the Christmas season.

13       We'll get everybody...we'll get everybody's feathers smoothed a little bit before

14       we get out of here today, hopefully.

15                  PEGGY BARBAR: Wait until January to ruffle them.

16                  BENNY WAMPLER: Do you have...do you have anything further?

17                  JIM KAISER: Based on that and, you know...we would...and the drill

18       site is a 100% leased, just to make sure, you know, that you know that. Based

19       upon Mr. Wishoun working on Ms. Woods' issue and getting her leased, we can

20       just dismiss her...if she leases, we'll dismiss her in the supplemental order

21       process and then Mr. Heflin working with the Turners to work out any surface

22       issues and surface damages, we'd ask that the application go forward and be

23       approved as submitted.

24

--

1           BENNY WAMPLER: Subject to providing Mr. Wilson a copy of what  
2 you find on Ms. Fleming.

3           JIM KAISER: Whatever we come up with on that old lease payment,  
4 yeah, or at least some sort of letter saying what we've done and what we found,  
5 yeah.

6           BENNY WAMPLER: Is there a motion?

7           JOSE SIMON: Move to approve.

8           BENNY WAMPLER: Motion to approve.

9           JIM McINTYRE AND PEGGY BARBAR: Second.

10          BENNY WAMPLER: Any further discussion?

11          (No audible response.)

12          BENNY WAMPLER: All in favor, signify by saying yes.

13          (All members signify by saying yes, but Donald Ratliff.)

14          BENNY WAMPLER: Opposed, say no.

15          (No audible response.)

16          BENNY WAMPLER: You have approval.

17          DONALD RATLIFF: I abstain, Mr. Chairman.

18          BENNY WAMPLER: You have one abstention, Mr. Ratliff.

19          JIM KAISER: Thank you.

20          KENNETH TURNER: Thank you.

21          BENNY WAMPLER: Merry Christmas. Is your person here?

22          JIM KAISER: Let's go with Hard Rock's first.

23          BENNY WAMPLER: The next item on the agenda is a petition from  
24  
25

1 Hard Rock Exploration, Inc. for pooling of conventional unit HRVAE #13. This is  
2 docket number VGOB-05-1213-1554. We'd ask the parties that wish to address  
3 the Board in this matter to come forward at this time.

4 JIM KAISER: Mr. Chairman, in this instance...we have revised  
5 exhibits for everybody. Our original exhibits didn't add up to a 100%. Mr. Wilson  
6 was kind enough to point that out to me. We have revised B and B-3.

7 (Jim Kaiser passes out revised exhibits.)

8 JIM KAISER: It will be Jim Kaiser on behalf of Hard Rock  
9 Exploration. Our witnesses will be Mr. Jim Talkington and Mr. Jim Stephens.  
10 We'd ask that they be sworn at this time.

11 (Jim Talkington and Jim Stephens are duly sworn.)

12 BENNY WAMPLER: The record will show no others. You may  
13 proceed.

14 JIM KAISER: Now, we'll start with Mr. Talkington.

15

16 JIM TALKINGTON

17 having been duly sworn, was examined and testified as follows:

18 DIRECT EXAMINATION

19 QUESTIONS BY MR. KAISER:

20 Q. Mr. Talkington, can you tell us who you're employed by in  
21 this capacity and what you do?

22 A. I'm the land agent for Hard Rock Exploration.

23 Q. And do your responsibilities include the land involved in  
24

--

1 this unit and in the surrounding area?

2 A. That's correct.

3 Q. And you're familiar with the application that Hard Rock filed

4 seeking to establish the drilling unit and pool any unleased interest for HRVAE

5 #13, which was dated November the 11th, 2005?

6 A. Yes, I am.

7 Q. And this is not a Pilgrim's Knob well. It is a statewide

8 spacing well, correct?

9 A. That's correct.

10 Q. Okay. Now, does Hard Rock own drilling rights in the unit

11 involved here?

12 A. Yes...yes, they do.

13 Q. And prior to filing the application, were efforts made to

14 contact each of the respondents and an attempt made to work out a voluntary

15 lease agreement?

16 A. Yes, sir.

17 Q. And what is the interest under lease to Hard Rock within

18 the unit at this time?

19 A. 58.04%.

20 Q. And are you familiar with the ownership of drilling rights of

21 parties other than Hard Rock underlying this unit?

22 A. Yes, sir, I am.

23 Q. And what is the percentage of the interest that remain

24

1     unleased at this time?

2                   A.       41.96%.

3                   Q.       Now, subsequent to the filing of the application in

4     November, have you continued to attempt to reach an agreement with any of the

5     unleased respondents listed at B-3?

6                   A.       Yes, sir, I have.

7                   Q.       At this point, have you been successful in obtaining any

8     additional leases?

9                   A.       Not at this point.

10                  Q.       Okay. So, all the unleased parties are set out at Exhibit B-

11    3?

12                  A.       That's correct.

13                  Q.       All right. We don't have any unknown or unlocateable

14    owners, is that correct?

15                  A.       This is 13...that's correct.

16                  Q.       And are the addresses set out in our Exhibit B to the

17    application the last known addresses for the respondents?

18                  A.       Yes, they are.

19                  Q.       Are you requesting this Board to force pool all unleased

20    interest listed in Exhibit B-3?

21                  A.       Yes, I am.

22                  Q.       Now, are you familiar with the fair market value of drilling

23    rights in the unit here and in the surrounding area?

24

1                   A.       Yes, sir.

2                   Q.       And could you advise the Board as to what those are?

3                   A.       A five dollar bonus, a five year term and a one-eighth

4 royalty.

5                   Q.       And do...in your opinion, do the terms you've testified to

6 represent the fair market value of and the fair and reasonable compensation to be

7 paid for drilling rights within this unit?

8                   A.       Yes, they do.

9                   Q.       Now, based on both the unleased interest and the interest

10 that are leased to other oil and gas entities, other oil and gas lessees, do you

11 recommend that they that they be allowed the following statutory

12 options with respect to their ownership interest: 1)

13 Participation; 2) a cash bonus of five dollars per net

14 mineral acre plus a one-eighth of eight-eighths royalty; or

15 3) in lieu of a cash bonus and one-eighth of eight-eighths

16 royalty share in the operation of the well on a carried basis

17 as a carried operator under the following conditions: Such

18 carried operator shall be entitled to the share of production

19 from the tracts pooled accruing to his or her interest

20 exclusive of any royalty or overriding royalty reserved in

21 any leases, assignments thereof or agreements relating

22 thereto of such tracts, but only after the proceeds

23 applicable to that share equal, A) 300% of the share of such

24



1 costs applicable to the interest of the carried operator of a  
2 leased tract or portion thereof; or B) 200% of the share of  
3 such costs applicable to the interest of a carried operator  
4 of an unleased tract or portion thereof?

5 A. Yes.

6 Q. Do you recommend that the order provide that  
7 elections by the respondent be in writing and sent to the  
8 applicant at Hard Rock Exploration, Inc., P. O. Box 13059,  
9 Charleston, West Virginia 25360, Attention: Jim Stephens?

10 A. Yes, sir.

11 Q. And should this be the address for all  
12 communications with the applicant concerning any force  
13 pooling order?

14 A. Yes.

15 Q. Do you recommend that the order provide that  
16 if no written elections was properly made by a respondent,  
17 then such respondent should be deemed to have elected the  
18 cash option in lieu of participation?

19 A. Yes.

20 Q. Should the unleased respondents be given 30  
21 days from the date that they receive the recorded Board order  
22 to file their written elections?

23 A. Yes.

24

--

1                   Q.       If an unleased respondent elects to  
2 participate, should they be given 45 days to pay for that  
3 proportionate share of well costs?

4                   A.       Yes.

5                   Q.       Does the applicant expect that party  
6 electing to participate to pay in advance that share of  
7 actual completed well costs?

8                   A.       Yes.

9                   Q.       Should the applicant be allowed a 120 days  
10 following the recordation date of the Board order and  
11 thereafter annually on that date until production is  
12 achieved, to pay or tender any cash bonus becoming due under  
13 the force pooling order?

14                  A.       Yes.

15                  Q.       Do you recommend that any order provide that  
16 if a respondent elects to participate but fails to pay their  
17 proportionate share of well costs to the applicant, then  
18 their election to participate should be treated as having  
19 been withdrawn and void and that respondent should be deemed  
20 to have leased?

21                  A.       Yes.

22                  Q.       Do you recommend that the order provide that  
23 where a respondent elects to participate but defaults in  
24

1 regard to payment of well costs, any cash sum becoming  
2 payable to that respondent be paid within 60 days after the  
3 last date on which that respondent could have paid their  
4 applicable well costs?

5 A. Yes.

6 Q. Okay. We've determined that the Board, in  
7 this particular case, does not need to establish an escrow  
8 account, is that right?

9 A. That's correct.

10 Q. And who should be named operator under any  
11 force pooling order?

12 A. Hard Rock Exploration, Inc.

13 JIM KAISER: That's all I have of this witness at  
14 this time, Mr. Chairman.

15 BENNY WAMPLER: Let me ask you a question. In your  
16 application, it's Hard Rock Exploration, Inc. and Carter Oil  
17 and Gas, Inc.

18 JIM KAISER: Well, Jim could probably answer that  
19 question. I mean, are they a partner?

20 JIM STEPHENS: Yeah, they're a partner.

21 JIM KAISER: I don't know why we did that in this  
22 case.

23 BENNY WAMPLER: I was just asking...since it was in  
24

1 the application that way, whether or not you needed to modify  
2 how it was---.

3 JIM KAISER: Yeah, I don't think it's anywhere...we  
4 don't mention Carter anywhere else in there do we?

5 BENNY WAMPLER: I didn't see it.

6 JIM KAISER: Well, yeah...do you want me to send  
7 you a corrected front page?

8 BENNY WAMPLER: However it needs to be done.

9 JIM KAISER: Yeah.

10 BENNY WAMPLER: I think...I think that needs to---.

11

12 JIM STEPHENS: That will be fine...just send a  
13 corrected front page.

14 JIM KAISER: I mean, you all are the operator and  
15 applicant, right?

16 JIM STEPHENS: Yes, sir.

17 JIM KAISER: And you're just a partner...an  
18 investor, basically, right?

19 JIM STEPHENS: Yes.

20 JIM KAISER: I'm sorry.

21 SHARON PIGEON: Go ahead and have him put that into  
22 the record and then it will support your changed documents.

23 JIM KAISER: Okay. When we call him, I ask him  
24

1 that.

2 BENNY WAMPLER: Any other questions of this  
3 witness?

4 (No audible response.)

5 BENNY WAMPLER: Call your next witness.

6 JIM STEPHENS

7 having been duly sworn, was examined and testified as  
8 follows:

9 DIRECT EXAMINATION

10 QUESTIONS BY MR. KAISER:

11 Q. Mr. Stephens, if you'd your name for the  
12 Board, who you're employed by and in what capacity?

13 A. Jim Stephens. I'm employed by Hard Rock  
14 Exploration, as Vice President.

15 Q. Now, before we get into the operational  
16 questions, it has been pointed out by the Board that the  
17 paragraph one of the application lists the applicant as Hard  
18 Rock Exploration and Carter Oil and Gas, Inc. Could you  
19 explain the relationship between the two and explain why  
20 we're going to modify that page to just state Hard Rock  
21 Exploration, Inc. as the applicant?

22 A. Hard Exploration and Carter Oil and Gas has  
23 a business relationship. We are the operator on this

24

--

1 property. They have...they invest up to 50% in each well.

2 Q. Okay. But Hard Rock will be the actual...is  
3 the actual applicant and would be named? We'd ask that they  
4 be named the actual operator under the order?

5 A. That's...that's correct.

6 Q. Okay. All right. And what's your position  
7 with Hard Rock?

8 A. Vice President.

9 Q. And what's the total depth of the proposed  
10 well?

11 A. 6300 feet.

12 Q. And the estimated reserves for the unit?

13 A. 300 million cubic feet.

14 Q. Now, you're familiar with the AFE that has  
15 been reviewed and signed by you and submitted to the Board as  
16 Exhibit C?

17 A. Yes.

18 Q. In your opinion, does it represent a  
19 reasonable estimate of the well costs?

20 A. Yes, sir.

21 Q. Could you state for the Board both the dry  
22 hole costs and completed well costs for well 13?

23 A. The dry hole costs are \$206,422.50 and the  
24

1 completed well costs are \$443,313.

2 Q. Do these costs anticipate a multiple  
3 completion?

4 A. Yes, sir.

5 Q. Does your AFE include a reasonable charge  
6 for supervision?

7 A. Yes.

8 Q. In your professional opinion, would the  
9 granting of this application be in the best interest of  
10 conservation, the prevention of waste and the protection of  
11 correlative rights?

12 A. Yes.

13 MR. KAISER: Nothing further at this time of this  
14 witness, Mr. Chairman.

15 BENNY WAMPLER: Questions from members of the Board of this  
16 witness?

17 (No audible response.)

18 BENNY WAMPLER: Do you have anything further?

19 JIM KAISER: We'd ask that the application be approved as  
20 submitted with the deletion of the Carter Oil and Gas entry.

21 DONALD RATLIFF: Move to approve, Mr. Chairman.

22 JIM McINTYRE: Second.

23 BENNY WAMPLER: Motion to approve and a second. Any further  
24  
25

1 discussion?

2 (No audible response.)

3 BENNY WAMPLER: All in favor, signify by saying yes.

4 (All members signify by saying yes.)

5 BENNY WAMPLER: Opposed, say no.

6 (No audible response.)

7 BENNY WAMPLER: You have approval. The next item on the

8 agenda is a petition from Hard Rock Exploration, Inc. for pooling of a conventional

9 unit HRVAE #14. This is docket number VGOB-05-1213-1555. We'd ask the

10 parties that wish to address the Board in this matter to come forward at this time.

11 JIM KAISER: Again, I have a new set of exhibits, B and B-3.

12 (Jim Kaiser passes out revised exhibits.)

13 BENNY WAMPLER: You have the same issue here, the correction

14 will be in the same manner, is that correct?

15 JIM KAISER: Yeah. We didn't have...the numbers didn't add up to

16 a 100%. Bad math.

17 BENNY WAMPLER: Also on the application?

18 JIM KAISER: Yeah. It has got...it also has Carter again on the front

19 page. So, again, we will...I'll send you a corrected one there.

20 DONALD RATLIFF: Mr. Chairman, that's also on the signature

21 page.

22 MARY QUILLEN: Yes. On both of those.

23 JIM KAISER: Yeah, I've got a note to delete it anywhere in the

24



1 application. I'll just send corrected originals to Mr. Wilson's attention.

2 BENNY WAMPLER: The record will show no others. You may  
3 proceed.

4 JIM TALKINGTON

5 DIRECT EXAMINATION

6 QUESTIONS BY MR. KAISER:

7 Q. Mr. Talkington, I'll remind you and Mr. Stephens that you're  
8 under oath. If you'd, again, state your name for the Board, who you're employed  
9 by and in what capacity?

10 A. Jim Talkington, land agent for Hard Rock Exploration.

11 Q. Do your responsibilities include the land involved in this  
12 unit and in the surrounding area?

13 A. That's correct.

14 Q. Now, does Hard Rock own drilling rights in the unit  
15 involved here?

16 A. Yes, they do.

17 Q. Prior to the filing of the application, were efforts made to  
18 contact each of the respondents with an interest in the unit in regard to working  
19 out a voluntary lease agreement?

20 A. Yes, they were.

21 Q. And what is the interest that is under lease to Hard Rock  
22 within this unit?

23 A. 64.41%.

24

--

1 Q. And you're familiar with the ownership of drilling rights of  
2 parties other Hard Rock underlying this unit?

3 A. Yes, I am.

4 Q. And what percentage is unleased in this unit?

5 A. 35.59%.

6 Q. Subsequent to the filing of the application, you've  
7 continued to attempt to reach an agreement with the unleased parties as listed at  
8 Exhibit B-3?

9 A. Yes.

10 Q. And you haven't required any additional leases yet, but  
11 that is an ongoing process?

12 A. That's correct.

13 Q. Okay. So, all the unleased parties are set out at Exhibit B-  
14 3?

15 A. Yes, sir.

16 Q. And, again, we don't have any unknown or unlocateable  
17 entities, correct?

18 A. That's correct.

19 Q. In your professional opinion, was due diligence exercised  
20 to locate each of the respondents named herein?

21 A. Yes, sir.

22 Q. And are the addresses set out in Exhibit B to the  
23 application the last known addresses for the respondents?

24

1 A. Yes, they are.

2 Q. Are you requesting this Board to force pool all unleased  
3 interest listed at Exhibit B-3?

4 A. Yes.

5 Q. Again, are you familiar with the fair market value of drilling  
6 rights in the unit here and in the surrounding area?

7 A. Yes, I am.

8 Q. Could you advise the Board as to what those are?

9 A. A five dollar bonus, a five year term and one-eighth royalty.

10 Q. And did you...in your opinion, do the terms you just testified  
11 to represent the fair market value of and the fair and reasonable compensation to  
12 be paid for drilling rights within this unit?

13 A. Yes, sir.

14 JIM KAISER: Mr. Chairman, I'd ask that the statutory election  
15 options afforded any unleased party, the testimony taken previously from docket  
16 number 05-1213-1554, be incorporated for purposes of this hearing.

17 BENNY WAMPLER: It will be incorporated.

18 Q. Mr. Talkington, we've already established that an escrow  
19 account does not need to be created for this unit, is that correct?

20 A. That's correct.

21 Q. And who should be named the operator under the force  
22 pooling order?

23 A. Hard Rock Exploration, Inc.

24

25

1                    JIM KAISER: Nothing further of this witness at this time, Mr.  
2 Chairman.

3                    BENNY WAMPLER: Any questions from members of the Board?  
4 (No audible response.)

5                    BENNY WAMPLER: Call your next witness.

6

7                                    JIM STEPHENS

8                                    DIRECT EXAMINATION

9                    QUESTIONS BY MR. KAISER:

10                    Q.            Mr. Stephens, again, state your name, who you're  
11 employed by and in what capacity?

12                    A.            Jim Stephen, Hard Rock Exploration, Inc. as Vice  
13 President.

14                    Q.            And this, again, is a statewide spacing well and not a  
15 Pilgrims Knob well, right?

16                    A.            That's correct.

17                    Q.            And, again, we are going to send a modified original  
18 opinion to delete any reference to Carter Oil and Gas who is not going to be an  
19 applicant or operator, just as an investor with your company?

20                    A.            Yes.

21                    Q.            What's the total depth of this well?

22                    A.            6300.

23                    Q.            Estimated reserves?

24

--

1 A. 300 million.

2 Q. And you're familiar with an AFE that you actually prepared,  
3 signed and submitted to the Board yourself?

4 A. Yes...yes, I am.

5 Q. In your opinion, it represents a reasonable estimate of the  
6 well costs?

7 A. Yes, I am.

8 Q. Could you state those for the Board?

9 A. I do not have that sheet with me. The dry hole costs are  
10 \$206,422.50. The completed well costs are \$445,652.

11 Q. And does your costs anticipate a multiple completion?

12 A. Yes.

13 Q. Does your AFE include a reasonable charge for  
14 supervision?

15 A. Yes.

16 Q. In your professional opinion, would the granting of this  
17 application be in the best interest of conservation, the prevention of waste and the  
18 protection of correlative rights?

19 A. Yes.

20 JIM KAISER: Nothing further of this witness at this time, Mr.  
21 Chairman.

22 BENNY WAMPLER: Questions from members of the Board?  
23 (No audible response.)  
24  
25

1                   BENNY WAMPLER: Do you have anything further?

2                   JIM KAISER: We'd ask, Mr. Chairman, that the application be

3 approved as submitted with the caveat of submitting the modified paperwork

4 deleting Carter Oil and Gas.

5                   DONALD RATLIFF: Motion to approve, Mr. Chairman.

6                   PEGGY BARBAR: Second.

7                   BENNY WAMPLER: Motion is second. Any further discussion?

8                   (No audible response.)

9                   BENNY WAMPLER: All in favor, signify by saying yes.

10                  (All members signify by saying yes.)

11                  BENNY WAMPLER: Opposed, say no.

12                  (No audible response.)

13                  BENNY WAMPLER: You have approval. We'll go back to number

14 one. A petition from Melvin Jack Long appealing the decision of the Director,

15 docket number VGOB-05-1018-1494.

16                  JIM KAISER: I'll go and see where they are. They were getting

17 close, I think. That's what I heard anyway.

18                  BENNY WAMPLER: All right. We'll take care of some other

19 business while you're doing that. The Board members received the minutes from

20 the last meeting. Any modifications or a motion to approve.

21                  DONALD RATLIFF: Motion to approve as presented, Mr. Chairman.

22                  JOSE SIMON: Second.

23                  BENNY WAMPLER: Motion is second. Any further discussion?

24

1 (No audible response.)

2 BENNY WAMPLER: All in favor, signify by saying yes.

3 (All members signify by saying yes.)

4 BENNY WAMPLER: Opposed, say no.

5 (No audible response.)

6 BENNY WAMPLER: You have approval. We were notified of a  
7 change in our escrow agent. I'll ask Mr. Wilson to address the Board with some  
8 thoughts we had about that.

9

10

11

12 BOB WILSON: We were notified last Friday afternoon late that the  
13 branch or the office of Wachovia Bank, the Corporate Trust section of Wachovia  
14 Bank that is currently handling our escrow account has been purchased by  
15 American Stock Transfer and Trust Company. This is apparently a purchase of  
16 that entire branch. We have...we don't have really complete information about it  
17 as of yet. The representative from the bank called to give us pretty much a  
18 heads-up about the situation before we saw it in the newspaper or some place to  
19 let us know that it was being sold and to guarantee us that there would be no  
20 break in services or anything like that. The company that has purchased it,  
21 American Stock Transfer and Trust Company, is apparently one of the largest  
22 stock transfer...independent stock transfer agencies in the country. According to  
23 what we can find out, it's a very highly rated company. They deal pretty much in

24

--

1 the same business that the trust section of the bank does in that they handle  
2 employee stock ownership plans and stock transfers on acquisitions and this sort  
3 of thing. Actually, it's on a...a bit of...on looking at it, it appears to be closer to the  
4 operation of the bank than I initially thought it was. I have talked to a  
5 representative of Wachovia who is in charge of government and institution  
6 banking for this part of this country and asked him what his take on this was. He,  
7 too, has very little information at this point in time. He sent me the company line,  
8 which is what has been released internally, basically, stating that AST is a  
9 fantastic company and they're going to keep all services going. I questioned the  
10 situation with secondary deposit of the money. Right now we're dealing with  
11 Wachovia. That money is in Wachovia. We have Wachovia's guarantees on  
12 that. My concern was that with a secondary company there that they would be  
13 able to deposit these moneys in other institution that may or may not be as safe.  
14 According to Mr. Dixon at Wachovia, that probably would not be the case. We  
15 would have the opportunity to control what's...how the money is deposited. This  
16 company has a relationship with Wachovia. It uses it for lots of its banking.  
17 There's probability that we could leave it there if we wanted to. We had thought  
18 about the possibility of...thought about the possibility of exploring the possibility of  
19 using this particular situation to maybe change gears as to how we actually  
20 handle the escrow account. Part of what I would like to propose to the Board  
21 today is that we, as staff of the Board, explore the possibility of, number one,  
22 extracting ourselves from the current contract, which I think we have the ability to  
23 do. Secondly, the possibility of going to a situation whereby, rather than paying a

24

--



1 financial institution to manage the account, we would actually contract with a CPA  
2 firm to handle the...the escrow account for us. Basically, that would give full  
3 latitude as to how the...how it was deposited. It would still have to be according to  
4 the statutes in Virginia that protect public funds that are in the state's trust. But it  
5 would allow us possibly to keep those moneys in local institutions as well as have  
6 possibly a greater degree of control and communication with the company who is  
7 actually handling it. What I'd like to ask for today is...is your thoughts and, if you  
8 think that this is a feasible possibility, to give us your blessing on going out and  
9 doing some exploring work. We would have to work with our office of general  
10 services who basically keeps us straight as far as contracting and payments and  
11 this sort of thing, purchasing acquisitions within the state. They...they would be  
12 able to advise us as to what we could do with the existing contract and what kind  
13 of contract that we could go into. But I would like to explore this possibility while  
14 this is still fairly young. I don't think there is any reason, from my conversations  
15 with Mr. Dixon at Wachovia and I've been able to find out otherwise, I don't think  
16 that we are in any panic to have to do something right away. But I do think that  
17 since the entity is changing, that we have...most state contracts have very liberal  
18 out clauses that allow the state to give notice and get out of contract for cause  
19 shown. I think ours is structured that way. So, it's something we would like to  
20 explore the possibility of changing gears at this point time. If not that, to going to  
21 the system that I was telling you or suggesting, whereby we would hire a CPA firm  
22 to look after it rather than paying those...right now we're paying \$5,000 a month to  
23 the bank to handle this account. We figured we could get a significant deal with a

24

--

1 CPA firm underbid to...to handle this for us under...at the same price or better  
2 maybe. But we'd like to...like to have your thoughts on it and see if you want to  
3 pursue this.

4 MARY QUILLEN: I agree. I think the funds should be kept locally in  
5 this region.

6 BOB WILSON: I think this would give us more of an opportunity to  
7 do that because we could...we couldn't actually, I think, tailor our contracts to  
8 require it that way rather than going to an institution, which we are now, if it turned  
9 out to be a feasible approach. I think we could have more control over that.

10 BENNY WAMPLER: And you would just do the investigation and  
11 come back to the Board and make a presentation at that point?

12 BOB WILSON: Absolutely.

13 BENNY WAMPLER: Determine what the Board's options would be?

14 BOB WILSON: Yes, absolutely.

15 BENNY WAMPLER: Is that reasonable?

16 BOB WILSON: Under the---?

17 MARY QUILLEN: Yes, sir.

18 BOB WILSON: Excuse me. Under the contracting requirements of  
19 the State of Virginia or the Commonwealth, there are provisions for doing  
20 exploratory work so long as you don't violate the bid process or the process of  
21 giving contracts and that sort of thing. That's what we're proposed to do here is to  
22 find out, first of all, if the idea is even something that could fly under the  
23 circumstances that we have.

24

--

1                   JOSE SIMON: How much do we have in escrow?

2                   BOB WILSON: A bit over 12 million.

3                   JOSE SIMON: I guess the only thought I would have is going from  
4 somebody makes a living specifically in that area and is bonded and insured, etc.,  
5 etc. to maybe somebody that doesn't...hasn't gone through all those traps and  
6 doesn't have that experience. But I think that exploratory work is well worth it.

7                   BOB WILSON: Yeah. That's something, I guess, we could consider  
8 when we actually put things out for bid or for a request for proposals. If we got to  
9 that point, we could put the restrictions on it for the licensing and bonding and  
10 requirements and so forth.

11                  BENNY WAMPLER: In fact, our Treasurer...Department of Treasury  
12 would require us to. They would still...they would have to meet the standards of  
13 banking bonding and etc. So, I don't know how many would be out there. That  
14 will eliminate some for sure.

15                  JOSE SIMON: Yeah.

16                  MARY QUILLEN: Uh-huh.

17                  BENNY WAMPLER: Okay. So, it sounds like you've got the go  
18 ahead to do some exploratory work and come back to us.

19                  BOB WILSON: We'll report back.

20                  BENNY WAMPLER: Have you gentlemen reached an agreement?

21                  JOHN JENKINS: (Indicates in the negative.)

22                  BENNY WAMPLER: No agreement?

23                  JOHN JENKINS: No.

24

1                   BENNY WAMPLER: Okay. All right. They're out there talking, I  
2 guess.

3                   JOHN MOSS: Mr. Chairman, if I may, I just have a question before  
4 we...he heads back to Texas---.

5                   BENNY WAMPLER: Sure.

6                   JOHN MOSS: ---and I go back to Tazewell. Earlier in our hearing  
7 you asked if we had parcel numbers.

8                   MARY QUILLEN: Tracts.

9                   PEGGY BARBAR: Tracts.

10                  BENNY WAMPLER: Tracts.

11                  JOHN MOSS: Tract number.

12                  BENNY WAMPLER: That's how it's all set up---.

13                  JOHN MOSS: Now, are you asking about...I'm just trying to clarify,  
14 tax map ID numbers or---?

15                  BENNY WAMPLER: No...well---.

16                  JOHN MOSS: Because Buchanan County doesn't use that system  
17 like everybody else does.

18                  (Sharon Pigeon and Benny Wampler confer.)

19                  BENNY WAMPLER: What we'd have to have...he's asking us  
20 to...for the poolings that we've already made. For us to modify those poolings.

21                  JOHN MOSS: Yes, sir.

22                  BENNY WAMPLER: That's what you'd have to go back to. Those  
23 are the tracts we're talking about. Which...which pooling orders you're referring to  
24

1 and what specific Tract within the pooling order, to be specific about that.

2 JOHN MOSS: Okay. So, that's something that we could get from  
3 the operator, basically.

4 BENNY WAMPLER: It should be on file at the Courthouse and at  
5 Mr. Wilson's office, different places.

6 JOHN MOSS: All right. Thank you.

7 (Benny Wampler and Sharon Pigeon confer.)

8 BENNY WAMPLER: Okay, I just recalled, gentlemen, before you  
9 came in. Mr. Kaiser was here when I did. I recalled the docket numbers. So,  
10 we're back to number one on the agenda. I understand no agreement was  
11 reached?

12 JIM KAISER: No, apparently not.

13 BENNY WAMPLER: So, we'll go forward with the case. Did we  
14 have a previous swearing? We need to get you sworn in first.

15 (John Jenkins, Melvin Jack Long and George Heflin are duly sworn.)

16 COURT REPORTER: Please state your names, please.

17 MELVIN JACK LONG: Melvin Jack Long.

18 JOHN JENKINS: John Jenkins.

19 BENNY WAMPLER: Okay. So, you...you filed, so you get to go  
20 first.

21 MELVIN JACK LONG: Go ahead...go ahead, John.

22

23

24

--

1                   JOHN JENKINS: Mr. Chairman, we've...of course, we appreciate  
2 you all being able to postpone this from the last time because of lack of  
3 communication. We are objecting to this well site that Equitable Resources is  
4 wanting to put on this proposed property. We had an informal hearing on this  
5 several months ago. The Director here, he made a decision that he didn't see no  
6 reason they couldn't put the well where they wanted to put it and we object to that  
7 decision that he made because we intend to build on that property. We let  
8 Equitable Resources know this on day one. The first day that they contacted us  
9 originally that we was going to put a dwelling on this particular piece of property  
10 when their contractor came out to the job site. When I met with him on behalf of  
11 Mr. Melvin Jack Long and myself, I told him directly when he said this was the  
12 proposed...where we're going to put this well. I said, we're going to build a house  
13 on that property. His statement was, yeah, this is what I always hear when people  
14 is wanting to...you know, said that's...we always hear that. I said, well, I'm a  
15 contractor and I said, I'm building a place for Melvin. He's going to retire in this  
16 area and he's going to...we're going to build him a retirement place here on this.  
17 This is the highest and best...the highest part of his property that we own in that  
18 area and he owns that on that side of the hill. I said, we're going to build him a  
19 retirement home there. Also, we're going to build something for his children.  
20 We're going to build some on other parts of that property to sell. So, they knew  
21 full and well up front that we was wanting to build on that property. So, this was  
22 the gist of our...from day one and it still is that we...that that's our objection to this  
23 site. And we have...we have talked about alternative sites and every time that we

24

--

1 propose anything or alternatives, it's not feasible according to them and according  
2 to the decision, the Director, he said he wasn't feasible. Now, we still don't agree  
3 with that. But we still are going to build on this site and this is the main reason  
4 that we're here today, that we don't want this permit to go forward because this is  
5 a building location that we want to build on it. The impasse that we have in the  
6 negotiation, which is not directly to do with you all one way or the other, but they  
7 see one point of view on that and we see another. We have...we've worked on  
8 that every since we went out of here and we've come to an impasse on that. So,  
9 we ask that this...that you all look at it from...ladies and gentlemen on this Board,  
10 from the prospective of a private land owner versus the rights of a Equitable  
11 Resources through a mineral deed of 1897 or '98. It says that our great-  
12 grandfather gave Equitable Resources or whoever they have signed that  
13 particular mineral deed to, it happens to be in their hands now, the rights to mine  
14 coal and other minerals. There's no gas mentioned on it period. We know the  
15 stretches of law has brought this methane...coalbed methane gas well into life in  
16 the '90s. But we are objecting simply the highest and best use of our land and we  
17 will not be able to build there on that piece of property because it's...one person  
18 owns one side of the knob and we own the other side. They have made a deal  
19 with the other property owner prior to us having any knowledge that they was ever  
20 going to be a well put in this vicinity. Also, I've got a line laid up on the other side  
21 of the mountain to this property on adjacent to us. But the reason that they say  
22 that we had...hadn't been notified is they didn't know how to get a hold of us. That  
23 that was...when I had the contact with the Equitable contract out on the job site.

24

--

1 So, they went ahead with the permit anyway. So, we're here today asking you all  
2 to not issue this permit. We're not objecting to them putting the well. We've  
3 asked them to put it in another location and everything. They say it's not feasible  
4 for them. We feel it's not feasible for the very simply reason it would cost less for  
5 them to put it there than it would anywhere else on this particular grid they're  
6 talking about. So, we feel that we're in the rights as the property owner to have  
7 our use of our land and we're in the mountain region where land is not...we don't  
8 have that many building locations to start with. Melvin is retired. He has lived out  
9 of this area for some time and he's wanting to build on this location which has  
10 been known for the general population for at least ten years that we was preparing  
11 to do this when he retired. He's retired now and I know they will say that you all  
12 have...the Director said that we hadn't made no preparations to do no building on  
13 that site. When we found out what Equitable's intention was, that we wanted this  
14 to go through the processes, that's why we appealed it the first appeal on this.  
15 We could have went over there and tore the side of that mountain off and done  
16 had the...far along with the project. But we've got some parts of it and other  
17 locations that they're working on. But we feel to be fair with everybody, that we  
18 wanted this go forward and let it to be heard through the proper channels. But we  
19 do intend to build on this and we ask you all as a Board to consider the private  
20 landowner's rights versus their rights to locate wells on our property. This is the  
21 gist of the whole story. I know they have a different one altogether. But that's the  
22 gist of what we're trying to prevent that well to go in that particular location.

23 BENNY WAMPLER: Mr. Kaiser?

24

--



1                    JIM KAISER: I'd like to make an opening statement and then I'll  
2 have Mr. Heflin address some of the issues. It's important to note that the  
3 objection that we're here under today 45.1-36135.B4 is an interesting objection  
4 available to the surface owner. It's interesting to me in that it's qualified two ways.  
5 I'm going to read it to you. "Location of the coalbed methane well or coalbed  
6 methane well pipeline will unreasonably infringe..." and this is an objection they  
7 can make, "...will unreasonably infringe on the surface owner's use of the surface.  
8 Qualification one: Provided that a reasonable alternative site is available within  
9 the unit." That's what I'll have Mr. Heflin address and we've really been through  
10 the ringer there. "And two, and granting the objection will not materially impair  
11 any right contained in an agreement, an agreement being a deed or a lease, valid  
12 at the time of the objection between the surface owners and the operator or their  
13 predecessors or successors and interest." Well, here we have both a severance  
14 deed and a lease that grants us, the operator, or granted our predecessors and  
15 interest, the right to reasonable and necessary use of the surface to extract for the  
16 enjoyment of the mineral estate.

17                    So, that objection is qualified two ways. First of all, there has to  
18 be...in order for it to hold water there has be...in order for it to hold water, there  
19 has be a reasonable alternative site within the unit and/or, second of all, it cannot  
20 materially impair any prior agreement, including a deed or lease that was in effect  
21 at the time of the objection was made. Okay?

22                    Now, the second thing I would like you to do is to, and I assume  
23 everybody has, but if you take a close look at Mr. Wilson's order or decision in  
24

1 this matter, we feel it's very...we had a very long hearing and the transcript was  
2 forty or fifty pages. I think we clearly at least made a reasonable and good faith  
3 attempt to address all the concerns that Mr. Long and Mr. Jenkins have. I think  
4 it's a well written and well reasoned decision. I don't know whether I need to read  
5 into the record all my highlight...highlighted sections of it or whether or not  
6 everybody has read it. That would be whatever you want me to do.

7 BENNY WAMPLER: That's up to you, however you want to the  
8 record to read.

9

10 JIM KAISER: Yeah, I think I might go ahead and read some of it into  
11 the record on my opening statement. "The proposed operations for VC-536078  
12 include the well site, temporary drilling pits and the gathering for pipeline. As  
13 proposed, this site is directly adjacent to State Rt. 627 and requires no access  
14 road construction. The well itself is to be positioned very near a surface owner's  
15 property line such that the well site will be split in a linear fashion with half on the  
16 surface owner's property and half on the adjoining tract. Other than the wellhead  
17 connection, none of the pipeline will be placed on the surface owner's property.  
18 The largest area of surface owner's land to be used for the proposed operations  
19 will be for disposal of pit fluids. Neither the timber nor the land will be disturbed  
20 during this process." Then it talks about...we talk about the prior agreements,  
21 which is the second qualification to that objection that's available.

22 Reasonable...then I move down to, "Reasonable drill sites within the Virginia Gas  
23 and Oil Board designated unit," you know, this is a coalbed methane well, so the

24

--

1 unit is set up in a grid, "to be served by the proposed operations are restricted by  
2 topographic constraints in the presence of a major gas transmission line regulated  
3 by the U. S. Department of Transportation." We got a location exception for this  
4 because of those restrictions, dah, dah, dah. Testimony during the..."By  
5 minimizing the use of surface owner's property while pursuing the legal right to  
6 develop its mineral estate, the applicant appears to be within the bounds of what  
7 would be considered reasonable and necessary use of the property. While all  
8 adverse use of the property could be considered in an infringement on its owner's  
9 use, the surface owner failed to demonstrate that the well site placed on the very  
10 edge of the property constitutes an unreasonable infringement. Because of this,  
11 the lack of convincing testimony regarding interference with current or realistic  
12 future land use and the fact that no specific alternative locations were discussed  
13 at the hearing, the objection under sub-Section B(4) is denied."

14 We...then we continued it and then we had a long section this  
15 morning trying to work out, first, an alternative location, which I'll have Mr. Heflin  
16 address in his exhibit; and then we tried to work out, you know, some sort of  
17 compensation and then we couldn't work that out either. So, anyway, that's my  
18 opening statement. Then Mr. Heflin will pass out his exhibit to all the Board  
19 members and we can talk about our exhaustive efforts to find a reasonable and  
20 alternative location for this well. But, again...I mean, be aware that that's a very  
21 limited objection legally. It's qualified in two manners.

22 (George Heflin passes out exhibits.)

23

24

--

1 GEORGE HEFLIN

2 having been duly sworn, was examined and testified as follows:

3 DIRECT EXAMINATION

4 QUESTIONS BY MR. KAISER:

5 Q. All right, George, if you'll just kind of go through everything  
6 for them as to why we can't go here and we can't go there and where it is now.

7 Well, let me ask you first, who are you employed by and in what capacity?

8 A. Equitable Production Company. I'm landman for Equitable.

9 Q. And what are your specific duties?

10 A. Working with contract landmen to secure damage  
11 settlements, right-of-way, permits...oil and gas drilling permits.

12 Q. Are you kind of what I'd call the head guy for permitting in  
13 Virginia?

14 A. That's correct.

15 Q. Now, if you will, in conjunction with this exhibit, explain the  
16 first qualification, which is a reasonable alternative site.

17 A. Okay. We...in conversations with Mr. Long and Mr.  
18 Jenkins, they asked if we could move the well location. As you can see, it's on the  
19 property line between Lewis Smith and Melvin Jack Long. We looked to move the  
20 location to the north and that area right there is a real steep bowl and it's not a  
21 feasible site to put the location to get it off of him. They wanted us to move across  
22 the road. There's a pond and barn and the East Tennessee Gas line and a field  
23 that the people are using or had used for grazing and cattle. The drainage pattern

24

--

1 prevented us from putting a well there too in order to protect the pond. We looked  
2 at the interior grid to the west of the gas line and the topo map looks pretty good  
3 being flat. But if you put it in 3D form, it's pretty vertical and there's just no spot in  
4 there to put it that we can comply with the State Regs. We also looked at bringing  
5 the location back toward the south and there's a dwelling to the south and there's  
6 also a little cemetery on the ridge. I just...myself, I went out and looked at it too  
7 and I just didn't see any real feasible spot to put this well. If we could have gotten  
8 it off Mr. Long's property, we would have and we tried to.

9 Q. So, it would be your testimony that if we don't drill it where  
10 it's proposed to be permitted and where we got a location exception for, then we  
11 won't be able to drill a well within that particular unit?

12 A. That's correct.

13 Q. And that would result in the waste of...in the lost of  
14 reserves of, what, 300 to 350 million cubic feet probably?

15 A. Probably.

16 Q. I don't have that location exception in front of me, but that's  
17 on the record there. And you've personally been out here and walked that whole  
18 area trying to look for any other reasonable alternative site?

19 A. I've been out. I looked at a spot that Mr. Jenkins had  
20 shown us at the last hearing when we postponed the hearing and it puts us out of  
21 the exterior unit entirely into another grid where we already have a well location,  
22 an existing production producing well location, a CBM. So, it was a good spot, but  
23 it just wouldn't work because it was in a unit with another well.

24

--

1                   BENNY WAMPLER: But not within this unit?

2                   GEORGE HEFLIN: Correct. It was where the...where the roads  
3 fork. As you see where the road fork to the north, it was in that area there and  
4 that would us out of the exterior unit into another grid.

5                   BENNY WAMPLER: Other questions from members of the Board?

6                   (No audible response.)

7                   BENNY WAMPLER: Mr. Wilson, do you have anything---?

8                   BOB WILSON: I would only say, since Mr. Kaiser has read the  
9 several points of the decisions that I've issued here, that my major concern was  
10 not with feasibility of location. It was with the concept of unreasonable  
11 infringement. Both parties testified at our informal hearing that they, obviously,  
12 have a right to be there. Equitable has their rights through severance deeds and  
13 such to use...make use of that land. I believe the passage that was read was  
14 considered, "To make reasonable and necessary use of the property." Obviously,  
15 the surface owners have their rights to use the property. SO, the concern that is  
16 faced with under the statute is what constitutes unreasonable infringement. It was  
17 my opinion, expressed in the order that you have here in front of you, that the  
18 location of the well at the very fringes of the property did not constitute  
19 unreasonable infringement. Infringement, yes. Any adversarial use of surface  
20 property is an infringement. But the law requires that it be an unreasonable  
21 infringement.

22                   GEORGE HEFLIN: If you would, I'd like to pass down a 3D...let  
23 each one of you look at a 3D image.

24

--

1                   JIM KAISER: It's a little look at the---.

2                   GEORGE HEFLIN: It goes along with the topo map. Here's the 3D

3 just looking down as if you were in an airplane. Here's the same site. This is

4 what I was talking about. You can see what we have all inside the interior window

5 here.

6                   MARY QUILLEN: Now, is this right here---?

7                   GEORGE HEFLIN: This is the well spot right here.

8                   MARY QUILLEN: And this is...is this his boundary here?

9                   GEORGE HEFLIN: That's the property line, yes, ma'am.

10                  MARY QUILLEN: That's his property line and it's right here?

11                  GEORGE HEFLIN: Yes, ma'am.

12                  MARY QUILLEN: And then this is the Smith property up here---?

13                  GEORGE HEFLIN: Yes, ma'am.

14                  MARY QUILLEN: ---up above north of it?

15                  GEORGE HEFLIN: Correct.

16                  JOSE SIMON: It comes up---.

17                  MARY QUILLEN: Well---.

18                  JOSE SIMON: That splits this...okay, that's where that road splits

19 right there.

20                  GEORGE HEFLIN: Yes.

21                  JOSE SIMON: There's nothing down this way

22 or---?

23                  GEORGE HEFLIN: Well, there's...there's a cemetery in this area

24

1 and we go down underneath of it...below it and that's something that we as a  
2 company did not want to do because of, one, the integrity of the cemetery and  
3 two, maybe losing the location.

4 MARY QUILLEN: Is this on the...does this...would this well...would  
5 both property owners be involved in this since it's on---?

6 GEORGE HEFLIN: In the surface disturbance?

7 MARY QUILLEN: Yes.

8 GEORGE HEFLIN: Yes, ma'am.

9 MARY QUILLEN: I...I just have one question. If it's on that property  
10 line, how close was the property or were the sites where you planned to build from  
11 the property line?

12 JOHN JENKINS: If I may, can I come over there and address this on  
13 the map to you?

14 MARY QUILLEN: Sure.

15 JOHN JENKINS: Okay.

16 MARY QUILLEN: Since this is the proposed site and it's right on the  
17 property line where---?

18 JOHN JENKINS: Okay, this is...this is a high elevation area on all of  
19 this property through here.

20 MARY QUILLEN: Uh-huh.

21 JOHN JENKINS: This is the highest elevation on our property here.

22 MARY QUILLEN: Uh-huh.

23 JOHN JENKINS: The property lines do split through here. The  
24  
25



1 whole purpose in us building on this location for his retirement home is because it  
2 is the highest and best view.

3 MARY QUILLEN: Right. But how...how close is this to this  
4 boundary line where you're planning to build?

5 JOHN JENKINS: We're going to...the proposed well is here and  
6 we're going to build adjacent to the...we wouldn't be up to his property line, but  
7 their well site would be where we're wanting to build the house because they're  
8 wanting to disturb this area around through here, you know, where they've got this  
9 proposal. We're going to set...want to set the house on the side of this rim right  
10 here on our side of the property so we can see across that valley and down  
11 toward the highest and best use of it. So---.

12 MARY QUILLEN: Uh-huh. But how close is it to this?

13 JOHN JENKINS: To where the house site is?

14 MARY QUILLEN: Uh-huh.

15 JOHN JENKINS: Probably a hundred and maybe ten feet from the  
16 property line would be the back of where the house would be sitting.

17 JOSE SIMON: You say you had a couple of other cabins you were  
18 going to build?

19 JOHN JENKINS: And we're going to...it's all around on the other  
20 boundaries, which is off of this map here.

21 JOSE SIMON: Okay. That's why---.

22 MARY QUILLEN: So, that means---.

23 JOHN JENKINS: And let me...and they...and we still object. There  
24

1 is alternative sites to this. I will make this statement again, as I did out there and  
2 I've did before. There are other proposals and I'm not an expert in this field. But I  
3 do know why they want to use this site is because it's the easiest access to them  
4 and the least amount of expense to them to get to. I understand that. I'm a  
5 businessman. You want to do your operations where the least amount of money  
6 is spent. That's a good way to do business. But it's interfering with what we are  
7 wanting to do with the property. They say they have no alternative and I know  
8 they do have. There's alternatives right down in here they can put that well, but  
9 it's going---.

10 BENNY WAMPLER: Is it within the unit, sir?

11 JOHN JENKINS: It is. And they could...and says, "How do we get a  
12 road there?" Well, they've got roads built all over them mountains where they've  
13 got wells down in these hollows. This well could be put in this grid system down  
14 here. They chose not to because they want to be up here. They could put the  
15 well right here on this property here next to this road right here. They chose not to  
16 do that. I can understand why it's not going to work over here along these  
17 pipelines, yes, I'm...and where this...where this pond is here. We suggested they  
18 even go below the pond down here in one of these low lying areas and put the  
19 well in. They say it's too steep. They've got wells all over the county in a lot  
20 worser places. They do have an alternative. This is a direct infringement upon  
21 our rights to build on that. We've got 44 acres there on that boundary and there's  
22 about 60 acres of land there. But we've got one good location here to put a  
23 decent dwelling where you would have a good view. The rest of it lays on an

24

--

1 incline over in here. It's not proper to build on. The next location we've got is on  
2 another part, which is not...you can see here. And we do disagree that there is an  
3 alternative to that. I'd like for the Board, if they could, to come out there and see  
4 there's an alternative to that. It's just the highest and best use for them. It's  
5 definitely not the highest and best use for us to let them take the places that he  
6 had been planning for us putting him a retirement home in his later years to upset  
7 this and set a well here when we can put his house here. He definitely does not  
8 want to live adjacent to no well streaking within a 200 or 300 feet of his house.

9 BENNY WAMPLER: Well, let me...let me---.

10 MARY QUILLEN: When was this property---?

11 BENNY WAMPLER: Go ahead.

12 MARY QUILLEN: I'm sorry.

13 BENNY WAMPLER: Go ahead.

14 MARY QUILLEN: When was this property purchased?

15 JOHN JENKINS: This has come down through our generations from  
16 the 1800s, this property has, all the way down through...passed through the family  
17 down to---.

18 MARY QUILLEN: So, it has always...it has been owned by the  
19 family?

20 JOHN JENKINS: It's been family---.

21 MELVIN JACK LONG: By the Long family.

22 JOHN JENKINS: ---since through the 1800s.

23 MARY QUILLEN: And who made the...the agreement with whoever  
24  
--

1 the company was that they acquired...who did you acquire the agreement from?

2 GEORGE HEFLIN: Wizer Long is the original mineral owner.

3 MARY QUILLEN: And he is the one that...and who did he make the  
4 agreement with?

5 GEORGE HEFLIN: That was with, I think, Virginia Iron Coal and  
6 Coke Company, the original---

7 JIM KAISER: Pine Mountain...Pine Mountain Oil and Gas.

8 JOHN JENKINS: It wound up being Pittston Coal Company later.

9 MARY QUILLEN: Uh-huh.

10 GEORGE HEFLIN: Virginia/Tennessee/Carolina Steel and Iron  
11 Company.

12 MARY QUILLEN: So, someone in...in your family made this  
13 agreement with this company that preceded their ownership?

14 JOHN JENKINS: Yeah, he made...he made...yes, he made the  
15 agreement that they could extract coal out of there and other minerals, which  
16 there was no such thing as coalbed methane back in the 1800s. We're still  
17 inclined that this law was stretched out to make it easier to suck this gas off. It  
18 was supposed to have been for safety purposes. That's neither here nor there as  
19 to this issue. Our great-grandfather put a clause as to...there's only two deeds in  
20 Dickenson County that has been put into, that there has to be something worked  
21 out with the property owners. There's a...there's a clause in that...at the end of  
22 that mineral agreement that...that they just can't come in and do what they want to  
23 on that property. It's in there. You can read that in the mineral deed. Our

24

--

1 attorneys has advised us that they have no rights whatsoever to be on that  
2 property without agreements with us, regardless of what the mineral deed...they  
3 interpret it to be, is that they've got no right to be there because they have not  
4 made no agreement with us.

5 BENNY WAMPLER: Well, one thing I've got...I'll just tell you right  
6 now. From what you submitted on August the 22nd, tells me that certainly at that  
7 point in time, you basically said that, "The Supreme Court says that I don't have to  
8 give you permission to do anything and what's reasonable to me is get it a 100  
9 foot off my property and I give no permission for these sites to be on my property,  
10 unreasonable infringements applicable to Equitable proceeding to place and  
11 construct on my property." The Virginia law in 1990 said that's not the case. I  
12 mean, you know, now whether or not that's ultimately upheld by the Supreme  
13 Court of the United States or the Virginia Supreme Court even, I don't know. But  
14 the Virginia law said, in order to...for this to take place, that you must...if you  
15 want...if you object...if they're taking your garden site or your house site and all  
16 that, and there was testimony to that effect, that you...you know, that there's to be  
17 reasonable negotiations for another location on that site that is feasible to all  
18 parties. And I understand today, you all had discussion within this unit.

19 JOHN JENKINS: Sir, we've had discussions  
20 from---

21 BENNY WAMPLER: From day one, I understand.

22 JOHN JENKINS: ---day one and told them that we was looking  
23 for...we mentioned about alternative sites from day one when I met with their

24

--

1 contractor out there. In his arrogance, he said, "We will put that well there.  
2 We've got lawyers. We'll do whatever we want to." That was the gist of what he  
3 said. That's why we came back with something later, because of his arrogance.  
4 We was willing to work with them from day one to get an alternative site. We told  
5 them from day one that we wanted to build on that property and we've never  
6 changed that from day one to this. Yes, we put that in there intentionally because  
7 of his arrogance and the way he approached us with that. It might have not been,  
8 but it was done by us as the property owner. So, we felt that we needed...we was  
9 getting the raw end of this deal. We figured we needed to say something back  
10 about it. There is alternatives to that. There is no question they can put that well  
11 within that boundary. It's just a matter they don't want to spend the extra money to  
12 run the road and build the site. There is alternatives to it. When this is taken off  
13 here, we will never...they keep saying you can build on this property here. Well,  
14 we definitely...nobody in their right mind is going to go ahead and build after a gas  
15 well is put there with them pumps on them in the middle of night. They keep them  
16 greased during the day, in the middle of the night you'd never live by one. Go out  
17 there and hear them squeaking about 2:00 o'clock in the morning. You sure don't  
18 want to live by one, much less build a new house beside of it. That's why that  
19 we...we would like to see them put their wells in, but also feel that our rights as a  
20 property owner is infringing upon that location...that particular location where we  
21 want to have his retirement dwelling. That's the whole gist of this.

22 BENNY WAMPLER: Okay. I think we understand the situation.

23 JOHN JENKINS: Thank you.

24

--

1           MARY QUILLEN: Thanks.

2           BENNY WAMPLER: Do you, Mr. Kaiser, have any final---?

3           JIM KAISER: Yeah, again, I'd just...I'll make a closing statement  
4 and, again, direct the Board to the language in the objection.

5           (George Heflin and Jim Kaiser confer.)

6           JIM KAISER: I think Mr. Wampler seized on this in the  
7 comments...Chairman Wampler in the comments he just said. You know, it clearly  
8 says, "This objection only carries today, provided that a reasonable alternative  
9 site is available within the unit, agreeable to the...obviously, agreeable to the  
10 parties and..." not or but "and granting the objection will not materially impair any  
11 right contained in any agreement valid at the time of the objection between the  
12 surface owner and the operator or their predecessors or successors in interest."  
13 We have both of those qualifications here. We couldn't find, as hard as we tried,  
14 a reasonable and alternative site and it would materially impair our rights under  
15 both the severance deed and the oil and gas lease.

16           BENNY WAMPLER: Do you have that severance deed with you?

17           JIM KAISER: Yeah, George has it.

18           BENNY WAMPLER: Let me see the language, please. Is it the  
19 typical language that we can come in and tear up anything we want to without any  
20 obligations?

21           JOSE SIMON: That's just an abstract.

22           JIM KAISER: It's an abstract of the deed.

23           GEORGE HEFLIN: I've got the deed in here too. I can dig it out.

24

--

1 But this is the breakdown of---.

2 BENNY WAMPLER: If you'll let our attorney look at it.

3 SHARON PIGEON: I'd like to look at the deed.

4 GEORGE HEFLIN: I've got the deed too. But here's the reservation

5 language.

6 JIM KAISER: But we're also operating under the lease and not just

7 the deed.

8 BENNY WAMPLER: Do you got the lease?

9 JIM KAISER: Do you have a copy of the lease?

10 (Jim Kaiser and George Heflin confer.)

11 GEORGE HEFLIN: Clinchfield has originally took a lease from

12 Standard Banner Coal Company, who is now the owner of the minerals, and then

13 we in turn leased everything that the Pittston Company had under one big lease.

14 JIM KAISER: What's the deed book and page number?

15 GEORGE HEFLIN: I've got it. It's the deed between Wizer Long

16 and Virginia Iron and Coal. I had that daggone thing.

17 SHARON PIGEON: Virginia/Tennessee/Carolina.

18 (George Heflin looks through his file.)

19 BENNY WAMPLER: Do you gentlemen have the deed?

20 GEORGE HEFLIN: Do you...do you have your file with you?

21 JIM KAISER: Bob, do you have the file? He thinks he gave it to you

22 during the hearing.

23 GEORGE HEFLIN: That might have been one of the things we gave

24



1 you during the hearing is a copy of the severance deed. I thought I had it in here.

2 BOB WILSON: We did...we did not get a copy of that during the

3 informal. We took...we took testimony where you stated that you had the right to

4 be there, but we did not get any documentation.

5 GEORGE HEFLIN: Here we go.

6 JIM KAISER: Here we go, he's got it.

7 GEORGE HEFLIN: Here you go. I know I had it.

8 JIM KAISER: It was the last thing in there.

9 SHARON PIGEON: Always.

10 GEORGE HEFLIN: Of course.

11 JIM KAISER: Is that it?

12 GEORGE HEFLIN: I hope I can read it here. Let me see.

13 JIM KAISER: Somebody Long---.

14 GEORGE HEFLIN: Yeah, that's it.

15 JIM KAISER: Yeah, that's it.

16 GEORGE HEFLIN: That's it.

17 JIM KAISER: We're not saying we don't have to pay reasonable

18 compensation for any surface damage.

19 SHARON PIGEON: I need a magnifying glass.

20 GEORGE HEFLIN: See, that's why I went with the condensed

21 version.

22 JIM KAISER: I mean, we're certainly not disputing that. We always

23 have to do that.

24

1 (Sharon Pigeon reads the deed and confers with Benny Wampler.)  
2 SHARON PIGEON: Mr. Jenkins, what provision were you referring  
3 to that gives you the right to approve any transaction?  
4 JOHN JENKINS: What did you say, hon?  
5 SHARON PIGEON: You had made reference to some provision in  
6 the severance deed that gave the heirs or the surface owners the right to approve  
7 any location.  
8 JOHN JENKINS: It didn't...well, in talking about approving a  
9 location...does it show at the end of that severance deed what Mr. Long said there  
10 at the end of it?  
11 SHARON PIGEON: This is a pretty poor copy. I'm not sure it shows  
12 what you're trying to tell me it shows.  
13 JOHN JENKINS: Let me look and see. It may not be on that. It's  
14 right on the very bottom of the last page of that. You may not have it.  
15 BENNY WAMPLER: Well, let's look at the last page. It's signed by-  
16 --.  
17 SHARON PIGEON: There's signature on this page. So, it should be  
18 the last---.  
19 JOHN JENKINS: Let me see if I can find it on this one.  
20 SHARON PIGEON: This is a very difficult document to read.  
21 JOHN JENKINS: Kate, come down here.  
22 (John Jenkins confers with a lady.)  
23 JIM KAISER: It just says anybody...any materials...owner extracting  
24

1 minerals will be liable for damage to the surface. We know that. We don't have  
2 any problem with that.

3 SHARON PIGEON: Well, that's not what I understood him to say.

4 JIM KAISER: Oh, I know.

5 (John Jenkins confers with a lady.)

6 BENNY WAMPLER: Can I put you on a spot?

7 BOB WILSON: Sure.

8 BENNY WAMPLER: I'm going to ask Mr. Wilson a question just on  
9 behalf of the Board. In looking...I told him I was going to put him on a spot. In  
10 looking...and it's basically second guessing you. In looking at topography and  
11 looking at the area and everything that you've heard, do you believe there's a  
12 reasonable...other reasonable location on that...in that unit?

13 BOB WILSON: The key word in your question would be reasonable.

14

15 BENNY WAMPLER: Well, it's in the law.

16 BOB WILSON: I don't---.

17 BENNY WAMPLER: That's not my word.

18 SHARON PIGEON: A whole lot of their words.

19 BOB WILSON: It's an interpretable word. But...you know, I...we got  
20 a...from the operator an application for a location exception to drill outside the  
21 window at the same time the permit application was submitted. That application  
22 cited the steep topography, it cited the presence of that high pressure pipeline,  
23 which I'm always very interested in avoiding. I looked at it at that time and

24

--

1 concluded that that location exception should be granted because there were...the  
2 other alternatives that were available in that location, according to what I could  
3 see from the maps and the aerial photographs and the various things that I have  
4 publically available to me, I have not been on the site, appeared to be...the  
5 location available are in areas that are actively being used for agriculture  
6 purposes. I think somebody mentioned the fact that there was a pond down there.  
7 There is an open pasture across the highway from where they propose the  
8 location. Beyond that, almost everything that would be even reasonably feasible,  
9 involves that high pressure pipeline. That's an East Tennessee State Natural Gas  
10 Transmission line. It's a high pressure line. It's regulated by the Corporation  
11 Commission, the United States Department of Transportation. It's not one of our  
12 pipelines. We always are encouraging our operators to go...to go to great length  
13 to avoid any contact with these things. So, that was the reason that I used in  
14 giving the exception. I don't find another easily attainable location on that...in  
15 that...within that unit.

16 BENNY WAMPLER: That's what I'm talking about.

17 BOB WILSON: Yes. And there are various things that we consider  
18 when we get the...these requests for drilling outside the window. The topography  
19 that we have to deal with is one of the main ones because we have, in many times  
20 past, when accessing a proposed location, gone back to the operator and told  
21 them they would have to take extraordinary measures there to keep those pits and  
22 out slopes and things on the side of that hill or they had to move the location. We  
23 rarely tell them they have to move it. But we condition it to the point that many  
24

1 times they have had to move the location because of us. This is the sort of terrain  
2 that we would look at very seriously if somebody proposed a location on it.

3 MARY QUILLEN: Much of Buchanan County is like that.

4 BOB WILSON: Oh, yes, Buchanan and Dickenson Counties both  
5 are very, very much that way. I think that's why the...well, I know that's why the  
6 Board gave me the authority to grant these locations outside the drilling window  
7 was because even with the field rules as they are established, there are places  
8 where interior locations are just not available.

9 BENNY WAMPLER: Do you have anything to share with us?

10 SHARON PIGEON: I cannot, in all honesty, read this  
11 document...this deed document almost at all. It's...it is an extremely difficult copy  
12 to read. It's not a good copy. Of course, it's a handwritten copy, as deeds of that  
13 era are normally found to be. Of what I can read, I do not see anything beyond  
14 the normal provisions about compensation for damages and reservation of rights  
15 for personal use of certain amount of coal or a certain amount of (inaudible.) I  
16 cannot read most of this. So, I will be honest with you and say, whatever else that  
17 might be in there, I simply cannot read this copy. If we had a better document,  
18 perhaps I could, but I cannot. Based on what I can read and what I can see in the  
19 abstract, I don't see anything unusual or remarkable in these documents. These  
20 are the traditional severance documents.

21 BENNY WAMPLER: Any other questions from members of the  
22 Board of any of these parties that have testified?

23 (No audible response.)

24

--

1           BENNY WAMPLER: The question here is whether or not to uphold  
2 or overturn Mr. Wilson's decision. Is there a motion?  
3           JAMES McINTRYE: Motion to uphold.  
4           BENNY WAMPLER: We have a motion to uphold Mr. Wilson's  
5 decision. Is there a second?  
6           PEGGY BARBAR: Second.  
7           BENNY WAMPLER: Motion is seconded. Any further discussion?  
8 (No audible response.)  
9           BENNY WAMPLER: All in favor, signify by saying yes.  
10 (James McIntyre and Peggy Barbar signify by saying yes.)  
11           BENNY WAMPLER: Opposed, say no.  
12           DONALD RATLIFF: I'll abstain, Mr. Chairman.  
13           BENNY WAMPLER: One abstention, Mr. Ratliff. I guess without  
14 hearing that...I didn't hear any nos.  
15           PEGGY BARBAR: I didn't hear all yeses either.  
16           BENNY WAMPLER: Do you want to...do you want poll...do you want  
17 to just poll...I'll ask you to poll the Board members?  
18           COURT REPORTER: Ms. Quillen?  
19           MARY QUILLEN: Yes.  
20           COURT REPORTER: Mr. Simon?  
21           JOSE SIMON: I think I'll abstain.  
22           COURT REPORTER: Ms. Barbar?  
23           PEGGY BARBAR: Yes.  
24

1                    COURT REPORTER: And---?

2                    BENNY WAMPLER: Yes.

3                    DONALD RATLIFF: I abstain.

4                    JAMES McINTRYE: Yes.

5                    BENNY WAMPLER: So, Mr. Wilson's decision is upheld. That is  
6    appealable to the Circuit Court.

7                    JOHN JENKINS: We'll be doing that. We don't agree with that.  
8    You took away our rights to use our property when you agreed to that.

9                    BENNY WAMPLER: Well, the General Assembly made some  
10   decisions there that the Court will be able to  
11   hear---.

12                   JOHN JENKINS: You took away our rights when you voted to do  
13   this. Our rights is to build our house there. We can't build it. There's no  
14   individual group should be able to take the rights of a property owner away to  
15   build on their property. That's what you've done. That's the reason we hadn't  
16   started building. We wanted a precedent on this. Now, you all set it. So, we'll get  
17   the guidelines going now. It's about time these laws were brought up to date.  
18   This (inaudible).

19                   BENNY WAMPLER: We understand. I'll just take this opportunity to  
20   thank the Board members for your services here and Merry Christmas and Happy  
21   New Year and a safe journey home. Thank you.

22                   (Everyone says thank you.)

23   STATE OF   VIRGINIA ,

24

--

1 COUNTY OF BUCHANAN, to-wit:

2 I, Sonya Michelle Brown, Court Reporter and Notary  
3 Public for the State of Virginia, do hereby certify that the  
4 foregoing hearing was recorded by me on a tape recording  
5 machine and later transcribed under my supervision.

6 Given under my hand and seal on this the 10th day  
7 of January, 2006.

8

9

NOTARY PUBLIC

10

11 My commission expires: August 31, 2009.

12

13

14

15

16

17

18

19

20

21

22

23

24

25